

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

December 20, 2001

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, December 20, 2001, at 12:00 p.m., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Jerry Michaelis, Chair; Don Anderson (late arrival); Bud Hentzen; Ray Warren; James Barfield (late arrival); Elizabeth Bishop; Bill Johnson (late arrival); Harold Warner; Ray Warren; Kerry Coulter (late arrival); Ron Marnell; John W. McKay, Jr. Frank Garofalo; David Wells; Dorman Blake. Staff members present were Marvin S. Krout, Secretary; Dale Miller, Assistant Secretary; Donna Goltry, Principal Planner; Scott Knebel, Senior Planner; Bill Longnecker, Senior Planner; Neil Strahl, Senior Planner; Jess McNeely, Associate Planner; and Rose Simmering, Recording Secretary.

1. Approval of the MAPC minutes for November 15, 2001.

MOTION: That the minutes for November 15, 2001 be approved.

MARNELL moved, **HENTZEN** seconded the motion, and it carried unanimously (9-0).

2. DR 00-12 Oaklawn/South Wichita Haysville Neighborhood Plan briefings presented by Dave Yearout and Beth King.

DAVE YEAROUT, Planning Consultant, retained by the City and the County to work on a couple of area plans for the south end. We are going to go through this presentation. Along with me is Beth King from King Merj Public Relations who partnered with us on this project. Oaklawn Neighborhood Revitalization Plan first. The plan area covered is the Oaklawn/Sunview area, and covers 260 acres. Review of Neighborhood Data sheet and slides. Per 2000 Census data, there are 1,179 homes occupied by 3,135 people in Oaklawn/Sunview neighborhood. Oaklawn area first platted in 1951 and Sunview came in shortly thereafter.

Worked with stakeholders and listed 10 different priorities.

1. Housing and Property Maintenance
2. Community and Image
3. Public safety and Crime Prevention
4. Education
5. Communication
6. Recreation
7. Infrastructure
8. Commercial/Retail Growth and Health
9. Health, Medical Care and Social Services
10. Fear of Government

An informal partnership of Riverside Township and Oaklawn Improvement District currently exists.

Formally develop a partnership and empower that partnership to do a lot of things (examples of housing and property condition problems shown on pictures) abandoned houses, problem with property conditions, and discussed sidewalks along the edge of the curb homes built long time ago. Sidewalks and curbs are about gone. Further north in Sunview Area the sidewalks are worse. In some places, they have parking problems for abandoned properties. More pictures of homes that are abandoned and looking bad. Weeds, eyesore, bad area to play for kids.

GOAL ONE: Improve housing and property conditions. Recorded Oaklawn Overlay District within the Zoning Code to act as enabling mechanism. This will provide greater flexibility for improvements to individual properties. Also provides higher standards for certain improvements and basis for additional code development by Sedgwick County.

Improved rules and regulations regarding placement of Manufactured Homes and development of Manufactured Home Parks within the area.

Revise the Unified Zoning Code to create two separate zoning districts for manufactured home parks and one for subdivisions. Create two separate districts one, for park and one for subdivisions.

- A. Establish separate zoning categories for Manufactured Home Park (land lease) and Manufactured Home Subdivision (land purchase) developments.
- B. The manufactured Home Parks (land lease) category should:
 1. Establish a minimum of 50 feet "open space" setback from public street and 25 feet from all other exterior property lines of the park
 2. Strengthen the buffering requirements through screening walls and landscaping within the "open space" areas noted above.
 3. Mandated storm shelters within 300 feet (equivalent of one standard city block) of all lots and capable of providing shelter for all residents.
 4. Prohibit placement of individual units on permanent foundations.
 5. Mandate all internal infrastructure improvements to be privately owned, financed and maintained.

6. Establish minimum street and parking standards of 42 feet width with parking on both sides of the street, 30 feet width with parking on one side of the street, and 24 feet width with no parking on street.
 7. Mandate set-aside areas for storage of amenities such as trailers, boats, and other resident property items.
 8. Modify internal setback standards to establish a minimum separation between individual housing units of 25 feet.
- C. Manufactured Home Subdivision (land purchase) category should:
1. Incorporate detailed foundation design criteria to assure appropriate structural support of the "permanent" placement of units on lots.
 2. Mandate platting similar to single-family residential development with similar infrastructure standards (prohibit private streets or utilities).
 3. Prohibit placement of units on anything other than permanent foundations.

Other strategies: Designate areas for redevelopment and rehabilitation. Develop and enforce new standards for property maintenance. Develop and enforce minimum standards and health and safety improve. Coordination of administration of codes to condemn and remove unsafe properties, expand financial incentives for area, support CHS in educating residents on property main and repair

Goal TWO: Maintain public safety and improve crime prevention programs. Maintain law enforcement presence. Increase citizen involvement. Enhance neighborhood watch program. Support DRC and others in at risk programs. Reduce crime opportunities.

GOAL THREE: Improve Education Opportunities. Support after school and "latch key" programs, support adult education opportunities. Publicizes GED opportunities add mentoring programs for youth.

GOAL FOUR: Improve Community Image and Sense of Community Pride, improve District Newsletter, increase coordination between groups, enhance translation services, support continued social activities for neighborhoods.

GOAL FIVE: Improve recreational opportunities. Expand recreational programs and physical capabilities, support completion of Community Recreation Center. Support expansion of DRC programs. Preserve open space by the Arkansas River as park space. Facilities such as swimming pool, basketball courts, playground equipment to be added or improved.

GOAL SIX: Improve opportunity for commercial/industrial development. Create Business Association (as part of the Partnership). Support market study for area enhance development standards through Overlay District.

GOAL SEVEN: Improve onsite health and medical care and social service capabilities.

Maintain Department of Aging and Wichita transit disability transportation. Investigate the possibility of a doctor-in-residence program on-site. Provide on-site drug and alcohol counseling. Determine whether on-site Sedgwick county Health Station is warranted and advise.

STAKEHOLDER DESIGNATED INFRASTRUCTURE NEEDS.

Improve 47th Street from K-15 to the Arkansas River. Improve the intersection of 47th and Clifton with full traffic channelization and signalization. Improve Clifton from 47th Street to 63rd Street to "super-2" standards and install turn lanes in front of the schools. Continue funding of the drainage projects identified in the Sedgwick County Drainage Plan. Signalization would enhance Clifton Street. Trail development hiking, biking, walking trails. Any questions.

MCKAY Type of breakdown of ownership by whom private industry, city?

YEAROUT 50/50 split. About half the housing units just primarily in the Oaklawn/Sunview area were owner occupied and slightly above the remainder were rental occupied and some owned in small clusters by some people. Cottage grove owns the largest number of individual units. I don't know if the County or CHS owns any at all, but most of them seem to be in private hands, but the mixture was pretty close to 50/50.

WARREN Your suggestion about the mobile home zoning, you are wanting to change it from county standards with an overlay that would be unique for that area or are you suggesting something for the whole county?

YEAROUT The manufactured homes recommendations in both plans talk about going into the unified zoning code which currently carries a single-manufactured home zoning category and within that zoning category; if you have property so zoned, it can be developed as a part of a subdivision. The difference being a park is for creation of spaces that you lease to somebody else, and they put a housing unit on there or you put one and provide it for them, but it is always a leased situation. As opposed to a subdivision, which the land is sold much like it is in the normal single-family development. The development standards for those are different. The subdivision standards are pretty much like a single-family development and in today's marketplace (where those are occurring) the only difference in terms of development design really comes down to they want to make those kind of housing units available as what ultimately is placed here as opposed to relying only exclusively on site built construction. There is a market for that, and the idea in the amendments would be that it would apply county wide not just for these two areas. The highest concentration of manufactured home development exist in these two areas.

WARREN Primarily you would like to see it divided then into the rental type versus the subdivision type?

YEAROUT My experience in other jurisdiction is the best way to manage how the property develops once you get past the issue of yes we will allow that kind of development to occur, is to designate that this is park development and if it is zoned and approved it will be a park and that is all that it will be. If someone comes in ask that it be developed as a subdivision and the difference is that over just traditional single-family, is that you can allow individual lots to have single-wide placed on them with siding standards, but

the difference is that if I come in now and get "MH" I may get my zoning based on my plans to do a subdivisions development which is often less controversial. But, there is nothing in that zoning district that doesn't say that I can't convert that to a park just simply by changing my development plan. Under our recommendation, I would not be able to do that if I convince the power to be that it is going to be a subdivision and then I decide to change it to a park. I got to go through the rezoning process again.

GARAFALO Where is the money coming from? Where is most of the cost in the infrastructure?

YEAROUT That is the biggest problem; everyone has a piece, but nobody is taking a lead. The Oaklawn Improvement has the power to do certain things, but they don't have the ability to do everything. The Riverside Township has the responsibility for the roads, but they are not in the business of building curbs, gutters and sidewalks. The County plays somewhat of a role, and they have taken that with some of the larger drainage improvements and the major collector streets like 47th and Clifton and 63rd, but they don't address all the issues. It is going to be collection of areas. We are calling for the partnership under the umbrella, perhaps under the neighborhood association, to pursue 501C3 status to be in a position to attract other donations and investments and also give them the ability to pursue grants. CHS currently does have CBD status and can be used more and what they are lacking is a clear understanding for a mission for the area; that is where the partnership comes in. Some of that may go back to the adjoining owners to contribute that. We did not come in here with the expectation that this is all going to be found money someplace else, and it is going to be gifted to the folks down there. They are going to have to participate.

BISHOP My question also about funding. Create plans both of them for the community for a whole. Is this going on a shelf and collect dust? Are any of these capital improvement cost tied into anyone's CIP right now?

YEAROUT No. Intent is these are projects that are identified as capital in nature from a governmental entity standpoint, and the are not currently in anybody's CIP so the expectation is that these are items that are identified for these areas to be put on the table for consideration the next time the CIP is evaluated.

BISHOP So there not even a year that could be attached to any of these?

YEAROUT Target dates you have to wait and see what the governing bodies decide.

BETH KING Communication problems because too many entities at play and each organization has several priorities. The value of this plan is a vision for five or fifteen years down the line. To work together has been hard with communication.

HENTZEN In studying these two cases, they use the manufactured home words. Why don't you call it one is a trailer home and the other is manufactured home? I mean to tell you that you have to go and look up what that particular document describes. Why don't we make it simple so we can all understand? I understand that it beyond this program, but if you sell the land and put a home on it with the foundation that is a manufactured home subdivision. If you don't own the land and you lease it and you pull a trailer in there and pay the owner for using the land and you do not put a foundation under it, probably skirting, but not a foundation, that is a trailer park, isn't it?

YEAROUT I wouldn't use those terms, but the effect is the same, yes.

HENTZEN Who is forcing these silly terms on us?

YEAROUT Uncle Sam more than anything else.

HENTZEN They don't know what they are doing.

YEAROUT South Wichita-Haysville Area Plan there are ten things listed and only 7 of them have prices on them. We are getting a lot of neighborhood plans, some with money and some without. I see all these things in here and I think it is a good plan frankly, but how can I decide about an area needing local money and these things needing local money. In other words, have we got so much on the wish list of every neighborhood plan that comes before us and then somebody sneaks in a 200 million dollar arena. How are you going to pay for it? Our approach in both of these plans is identifying the infrastructure projects, and it does become a wish list it does happen that way as it plays out; things might start like this and some time they may get to CIP every year. They stay there and never graduate sometimes into projects. Too many decision made from top down they needed more opportunity for these communities to understand that this is your chance and put your items on the table.

WARREN Oaklawn has some exciting things, ½ million dollars from public and private funds have been raised. With Dave's permission I would like to hear from Frank Cites. They have been meeting for over a year to establish a new project out there, and I think it is worthy that we listen to that project.

YEAROUT There is a coalition putting together a community center and I have no problem at all with Frank coming up. I would like everybody that is here and active in the Oaklawn plan to stand up

BETH KING Brad Snapp, June Bailey, Andree Sisco, Lynn Wysinger, and Mr. Dwight Ritter, people in the audience that have participated in the plan.

MARNELL The north end of the Sunview area there is a mobile home park there. Is that private ownership?

YEAROUT Under single ownership, real fuzzy, real fast. Public streets only.

MARNELL So when you were talking about street improvements, you weren't talking about any street improvements going into there were you?

YEAROUT No, public streets only.

FRANK SITES, Executive Director of the Derby Recreation Commission. We had meetings that the Sedgwick County Sheriff's Department actually started and put together because there was some interest in the area and at that time the discussions were on a community center, swimming pool, those types of activities in the park land available. The best way to go about starting something was to work with USD 260 at 47th and Clifton. Carlton Gymnasium is separate from the school. Why create something new, but use what was there and attach a community center focusing on teens and young people in that area. The exciting thing is that the plans have the Community Policing Office in that center with us. They can get a positive exposure. Try and get money from different sources, commercial endeavors, Boeing, private; we would take any names available.

KING Talks about the partnership with public and government fund raisers.

YEAROUT There is nothing else about Oaklawn Plan, switching to South Wichita-Haysville Area Plan.

The planning area is bounded by Meridian Avenue on the west; MacArthur Road on the north; the Arkansas River on the east; and 71st Street South on the south.

Stakeholders were comprised of a variety of large and small retail businesses, pockets of industrial properties, South Wichita Task Force, South Wichita Business Association, the South Area Neighborhood Association and the Haysville Chamber of Commerce. Listed eight issues, in rank order of importance to the stakeholders were:

1. Infrastructure.
2. Image and Community Relationships.
3. Property Maintenance.
4. Housing
5. Services.
6. Existing and Future Commercial Retail Development.
7. Parks and Recreation
8. Education and Schools.

GOAL ONE: Improve Infrastructure

Enhance communication of scheduled improvement to Hydraulic, etc.

Rebuild 47th and I-135, Interchange.

Reconstruct 47th Street, Meridian, 71st Street South. Convert KTA to freeway status or reroute into SE Sedgwick County to open up the development.

The route to get from Haysville to Derby need to change to get to the other side improve from Broadway to 71st street and go past Hydraulic.

Redesign 47th and I-135 interchange, there is a sight problem the off ramp is big traffic jam.

OTHER STRATEGIES INCLUDE: Continue redevelopment of residential streets

Problem drainage areas there are, neighborhood drainage problems. Nothing flows, it just fills up to the ditches. The ditches don't flow on Hydraulic.

GOAL TWO: ENHANCE AND IMPROVE AREAS IMAGE

Support continued efforts to clean up all areas and reduce crime

GOAL THREE: Support improvement of the property maintenance code administration and enforcement to improve the area's image.

Improve the enforcement of the housing, safety and sanitation codes serving the area to address the problems of unsightly, blighted and unsanitary properties within the study area. Support the Code Enforcement Departments through expanded education and training, with enforcement action when needed. Pursue the removal of abandoned properties. Extend the Neighborhood Revitalization Area to encourage growth and development. Support efforts to "clean up" unsightly business interest primarily along Broadway.

GOAL FOUR: Promote the development and revitalization of the housing and neighborhoods within the Planning Area. Enhance and improve the area's housing opportunities to support the growth and development of the area. Encourage the rehabilitation and reuse of the existing housing stock through an enhanced effort to solicit participation in housing programs. Expand the locations for apartment development. Revise the Unified Zoning Code to create two separate zoning districts for manufactured home development – one for Manufactured Home Parks and one for Manufactured Home Subdivisions.

GOAL FIVE: Improve the delivery of services for seniors and youth. Support the conversion of Funston Elementary School to a community center and a recreation center for use by area residents. Support the completion of the new library on the south side of Wichita. Support additional programming and services at the Haysville Activity Center. Support and encourage construction and development of more assisted living centers by the private sector and senior centers by all parties.

GOAL SIX: Improve the area's opportunities for additional commercial growth and development. Support the reconstruction of the 47th Street and I-135 interchange. Support the reconstruction of 47th Street to boulevard standards. Support the development of

Meridian to 4-lanes. Support the development of the "regional" commercial center to the southwest of the 47th Street and I-135 interchange. Support the "preferred developer" and the ultimate redevelopment of the Seneca corridor in Haysville as a new "downtown" commercial center. Support commercial development oriented to the needs of the Planning Area in conformance with the siting standards within the adopted Comprehensive Plans of Wichita and Haysville. Provide "incentives" such as tax increment financing, tax abatements or other special programs to encourage commercial investment in the Planning Area.

GOAL SEVEN: Improve the park and recreation opportunities in the Planning Area: Support completion of the south Lakes Park Development. Purchase land and develop additional neighborhood/community parks within the Planning Area as identified on the Future Land Use Map. Support the improvement to Emery Park already identified by the Park Department. In addition, expand to include enhancements to park facilities such as parking and internal improvement around the "open pond". Support the improvements and conversion to Chapin and Garvey Parks and Funston Elementary School. Support South Lakes Park development purchase community park properties in area support enhancement to existing parks.

GOAL EIGHT: Maintain a strong presence by education interests within the Planning Area. Support USD 259 support school plan of Haysville School. Support the implementation of the school redevelopment plans by USD 259 funded through the recently approved bond issue. Support conversion of Funston Elementary School to uses that enhance the quality of life. Support the continued growth and expansion of the Haysville School District facilities and services with the Planning Area. Support the implementation of "neighborhood schools".

HENTZEN Dave, as I studied this, I am glad you included that possible turnpike negotiations because when that turnpike was put together many years ago it was implied that once the bonds were paid off that it would not be a toll road. That has not happened. I am not particularly unhappy about it because the last couple of things the Turnpike Authority has done is put in those K-TAG things. I spoke to Mike Johnson. I don't think there has been a head on collision since they installed those walls in the middle there. This is an excellent time to be talking about maybe Sedgwick County and Wichita ought to take over that leg between East Kellogg and down South. They could either stop the turnpike at the east exits or they could decide to put it further from the east to the south. I think the city and county need to work with KDOT.

BISHOP During this process, the last Comprehensive plan discussion, and recently the discussion of what at one time was called "green wedges" and "gateway areas". Was there any discussion about these concepts?

YEAROUT No, it was late in the review process that it was brought forward by the Planning Department here. I did not put it in this presentation, but there is discussion about that to explore those opportunities.

BISHOP So for the benefit of the audience, a gateway type area that indicated to you that you were leaving one community and arriving at another one because that enhances a community sense of idea and commitment to their own identity and commitment to their own community. In connection with that goal number 2.B.6.: Which is to create an ad hoc committee between the MAPC and the Haysville Planning Commission to meet on a regular basis concerning growth and development issues between Wichita and Haysville. Include representatives of stakeholders and other interested citizens of the area in scheduled meetings. I think that is a good idea.

GARFALO What is your understanding of the status of the Hydraulic project?

YEAROUT It continues to be carried in the budget. Funds are committed at various stages; its budget timeline is at the end of 2003, I believe.

GARFALO Have you told Krispy Kreme about how good the Applebee's is doing on 47th Street?

HENTZEN We have many neighborhood plans, and I am going to tell you if you are going to do it with one you are going to do it with all of them. On your Haysville Plan, the Greenbelts are mentioned on page 37. The potential may exist for the creation of a greenbelt buffer area. I would like to submit that we as a group have never had a workshop or even a serious discussion about greenbelt, and I don't think we ought to be including it in things that we want to approve real bad. In fact, if it is in here I am still going to approve it, but I don't want somebody to come along later and say you have already approved it, and we don't need to talk about it.

COULTER Thanks to both Dave and Beth. This is a 10-year project we have been trying to work on get the City to identify a little improvement for us. Thank you for all the hard work you have put into this.

YEAROUT Acknowledgment of the Haysville people who have worked on the plan.

MICHAELIS Before we go on is there anyone here to speak on Item #8? That item has been pulled.

3. **DR2001-16 – Update to MAPC Policy 5 pertaining to platting extensions and City Council Policy 9 pertaining to appeals of MAPC actions, presented by Scott Knebel.**

SCOTT KNEBEL, Planning Staff, presented a proposed update to MAPC Policy 5 pertaining to platting extensions and to City Council Policy 9 pertaining to appeal of MAPC actions.

During the past several months, two separate instances have exposed weaknesses in the adopted policies pertaining to extensions of time to complete platting required as a condition of zoning approval and appeals of MAPC decisions. Amendments to these policies have been prepared and are scheduled for MAPC to review today.

First, an applicant requested (and was granted) a platting extension in an instance where a guarantee for a portion of the cost of a traffic signal was required by the preliminary plat. The need for the traffic signal is imminent; therefore, the traffic signal will be installed prior to the extended deadline for platting. The end result is that the applicant will not be charged for any part of the traffic signal cost, even though the development of the applicant's property will significantly increase the traffic volumes at the intersection. As a result, Planning staff prepared the attached amendment to MAPC Policy 5, which would require an applicant to provide any guarantees or dedications prior to the platting extension being granted in instances where there is an impending public project.

The second instance concerned an appeal of a MAPC decision on a Conditional Use request. In this instance, property owners outside the area of notification filed an appeal of the MAPC decision and the applicant subsequently challenged the validity of the appeals. The Unified Zoning Code provides for such appeals; however, there is no policy guidance for determining the validity of such appeals. As a result, planning staff prepared the attached amendments to City Council Policy 9 that provide a process for determining the validity of an appeal. In the future, planning staff intends to propose amendments to the Unified Zoning Code to clarify which parties have "standing" to appeal.

Planning staff recommends that the MAPC recommend approval of the proposed amendments by the governing bodies.

WARREN I have some big problems with this. Almost always we are at a situation where we have to ask for an extension or we have a time delay between zoning and final plat or we have a time delay between preliminary plat. I think it is going to be more so as economic conditions continue. The way this thing reads is that as a condition of extension they could demand dedication of easements, access controls, guarantees of dedication, and you are not in a position to do that until that plat is recorded. This thing needs some study, and I would submit that we need to delay this until we have a lot more input into it. I can see what they are trying to do, but I am not sure that I agree with what they are trying to. I can also see what motivated them to do this, but I think there are some deficiencies in this and they need to be worked out.

GARAFALO The first paragraph about the time period for completing the platting process shall be established in one year. Exceptions may be made for zone cases associated with a Community Unit Plan or for the Planned Unity Development cases could you explain that a little bit?

KNEBEL Basically the Planning Commission has the leeway of establishing a two- year deadline for platting or some other period of platting in zone change cases that are associated with a CUP or a PUD cases just due to the very nature that they tend to be larger and more complex cases.

WARREN moved **HENTZEN** seconded, that item three be delayed for an indefinite period of time until such time that we can get a better application.

MICHAELIS Mr. Krout has asked for clarification of the motion.

WARREN Indefinite is pretty indefinite. I don't know, I don't want to put a time frame when we are going to bring this forward.

KROUT Do you want us to schedule a workshop session where you can discuss your concerns?

WARREN Advance Plans could look into it. This is going to affect a lot of developments, and it could be pretty harsh if we demand...

KROUT I think I understand the intent now. I just want to state for the record that if any of the Planning Commissioner's feel that it would not be ethical to vote on this because you are directly affected by the outcome of a policy like this, you don't have to vote. I am sure the Chairman would agree to let you abstain.

MICHAELIS I agree I think we ought to put it off and discuss it. Personally, I think this is something that needs to be discussed by all of us. I would like to see us take some time after a meeting or before a meeting and discuss this.

WARREN I would like to see it come up at a workshop, if one is planned.

KROUT We probably have enough items to put one together.

MICHAELIS You want to see if we can do that then? Would you like to change your motion to reflect that wording, essentially that we are going to put it off until we can have a whole workshop for further discussion? Is that okay with the second.

MOTION: To defer item #3 until there is a workshop to discuss the item in further detail.

WARREN moved, **HENTZEN** seconded the motion, and it carried (13-1) **BISHOP** opposed.

Items 4-1, 4-2, 4-3, and 4-5 in one motion unless there is someone that needs to pull another item individually. Item 4-4 will be discussed.

4/1. SUB2000-85 – Final Plat of THE FAIRMOUNT ADDITION, located north of 21st Street North on the west side of 127th Street East.

A. Since neither municipal water nor sanitary sewer is available to serve this property, the applicant shall contact the Environmental Health Division of the **Health Department** to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities and water wells. A memorandum shall be obtained specifying approval.

- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **County Engineering** needs to comment on the status of the applicant's drainage plan. **A drainage plan and lot grading plan is needed.**
- D. The Applicant should provide an off-site 35-ft contingent dedication of street right-of-way along the east property line of his adjoining property to the east in order to provide potential street connection to adjoining properties. This dedication shall be established by separate instrument.
- E. The plat proposes one access opening along 125th St. North. **The Subdivision Committee has approved the access controls.**
- F. The signature line for the County Commissioners need only reference "Carolyn McGinn".
- G. The Applicant is advised that if platted, the building setback must be increased to 35 feet to conform with the Zoning setback standard for County section line roads.
- H. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width. **The Subdivision Committee has approved a modification.**
- I. The Applicant has provided a pipeline easement agreement which appears to indicate a blanket easement for the area involved in this plat. The Applicant shall either obtain a release of this easement or provide proof that the easement has been confined. If confined, any portion of this easement impacting this site shall be denoted on the plat and shall be properly referenced. A recorded copy of the release/confinement of the easement shall be submitted.
- J. Access drives to structures in excess of 150 feet from the edge of the road are to be installed by the owner/builder and accepted by the fire department prior to the issuance of the building permit. Said drives are to be installed according to fire department specifications (20 feet wide with applicable turnaround with an all-weather surface able to withstand the weight of heavy apparatus in inclement weather).
- K. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- L. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- M. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- N. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- S. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property. **Southwestern Bell has requested additional easements.**
- T. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **COULTER** seconded the motion, and it carried unanimously (14-0).

4/2. SUB2001-109 – Final Plat of THUNDERBIRD OFFICE PARK ADDITION, located on the southwest corner of 119th Street West and Maple.

- A. The applicant shall guarantee the extension of City water and sanitary sewer services to the site. **City Engineering** needs to comment on the need for any additional guarantees or easements. **An off-site drainage agreement is required.**
- B. This plat will be subject to approval of the associated zone change (ZON 2001-29) and any related conditions of such a zone change.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- D. **City and County Engineering** need to comment on the status of the applicant's drainage plan. **The drainage plan is approved.**
- E. **County Engineering** needs to comment on the access controls. Distances should be shown for all segments of access control. **County Engineering has required complete access control along the plat's frontage to Oliver. Shared openings are required between Lots 1 and 2, Block E, and between Lots 3 and 4, Block E.**

Access controls have been platted as requested.

- F. The joint access openings shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easements should also be addressed by the text of the instrument.
- G. **County Engineering will meet with the applicant regarding the need for alignment of Willowpoint Road on both sides of Oliver. The current alignment as platted is acceptable.**
- H. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- I. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- J. It is recommended that the applicant plat a pedestrian access easement between Lots 15 and 16, Block D, to increase the accessibility and usefulness of Reserve B.

The requested pedestrian access easement has been platted.

- K. **City Fire Department/GIS** has required new street names.
- L. The applicant shall submit a copy of the instrument which establishes the pipeline easements on the property, which verifies that the easements and setbacks shown are sufficient and that utilities may be located adjacent to and within the easements.
- M. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- N. The platting binder indicates a party holding a mortgage on the site. This party's name must be included as a signatory on the plat, or else documentation provided indicating that such mortgage has been released.
- O. The Subdivision Regulations require a 75-ft half-street right-of-way at arterial intersections; however **Traffic Engineering** has approved a 60-ft right-of-way with corner clip at the 45th St. North and Oliver intersection.
- P. For Lot 5, Block A, the lot depth to width ratio exceeds the maximum 2.5 to as specified by the Subdivision Regulations. **A modification from the Subdivision regulations has been approved.**
- Q. A street stub should be provided along the west line of the plat to provide potential street connection to adjoining undeveloped property.
- P. The street stub has been platted as requested.
- R. Blocks D and E should be labeled as one block.
- S. The applicant shall guarantee the paving of the proposed interior streets. The paving guarantee shall also provide for sidewalk on at least one side of all through, non-cul-de-sac streets.
- T. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- U. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage

easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of storm water.

- V. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- W. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- X. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Y. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Z. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- AA. Perimeter closure computations shall be submitted with the final plat tracing.
- BB. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- CC. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. **KGE has requested additional easements.**
- DD. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **COULTER** seconded the motion, and it carried unanimously (14-0).

- 4/3. **SUB2001-119** – One-Step Final Plat of NORTHEAST MIDDLE SCHOOL ADDITION, located on the south side of 45th Street North, west of Oliver.
- A. **City Engineering** needs to comment on the need for guarantees or easements. **The applicant shall provide a guarantee for extension of water, sewer and drainage.**
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **An off-site drainage easement is required.**
- D. **Traffic Engineering** requests a 66-ft right-of-way width for Broadview Circle.
- E. The applicant shall guarantee the installation of the proposed street to the urban street standard. The guarantee shall also provide for sidewalks on both sides of the street.
- F. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- G. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- H. **City Fire Department** needs to comment on the street length of Broadview Circle (1650 feet) exceeding the 1,200-ft limitation of the Subdivision Regulations. **The Subdivision Committee has approved a modification.**
- I. An off-site dedication of right-of-way is required to provide a connection to the east with Eagle's Landing at North Oliver Addition.
- J. The **City Fire Department/GIS** needs to comment on the plat's street names. **The street names are approved.**

- K. The applicant shall submit a copy of the instrument which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements. Any relocation, lowering or encasement of the pipeline, required by this development, will not be at the expense of the City.
- L. The applicant's agent shall determine any setback requirements for the pipelines by researching the text of the pipeline agreements. If a setback from the pipeline easements is provided for in the pipeline easement agreements, it shall be indicated on the face of the plat.
- M. The owners noted in the platting binder need to be signatories to the plat, or a revision to the binder showing that the site's ownership is only in the party now shown on the final plat.
- N. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of storm water.
- O. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- P. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- Q. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- R. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- S. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- T. Perimeter closure computations shall be submitted with the final plat tracing.
- U. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- V. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- W. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **COULTER** seconded the motion, and it carried unanimously (14-0).

- 4/4. SUB2001-120** – One-Step Final Plat of BENCOR THIRD ADDITION, located on the northwest corner of Harry and Broadway.
- A. Municipal services are available to serve the site. **City Engineering** needs to comment on the need for guarantees or easements. **A guarantee is required for relocation of sanitary sewer. A temporary easement is needed to cover the sewer line until relocation.**
 - B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
 - C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved. A guarantee is required.**
 - D. The plat proposes one access opening along Market, one opening along Harry and two openings along Broadway. **Traffic Engineering has approved the access controls.**
 - E. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings.
 - F. In accordance with the zone change approval, the applicant shall provide a cross-lot access agreement between the two

lots.

- G. **Traffic Engineering** needs to comment on the proposed right-of-way for Market, which is classified as an arterial on the 2030 Transportation Plan. The applicant has decreased the existing 40-ft right-of-way to 35 feet. The Subdivision Regulations require a 50-ft half street right-of-way width for arterials. **The Subdivision Committee has approved a modification for reduction of the right-of-way.**
- H. The 20-ft building setback needs to be platted parallel with the southeastern corner of the plat.
- I. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- J. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of storm water.
- K. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- R. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- S. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MICHAELIS Mr. Wells has informed me that he needs to abstain on this one, so we will take item 4-4 individually.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, **BLAKE** seconded the motion, and it carried unanimously (13-0-1) **WELLS** abstained.

4/5. SUB2001-117 – One-Step Final Plat of STERLING POINTE ADDITION, located on the northeast corner of Douglas Street and Sheridan Street.

- A. Municipal services are to be available to serve the site. **City Engineering** needs to comment on the need for guarantees or easements. **The Applicant shall pay for the costs of the constructed public improvements in the amount of \$134,000 with the plat.**
- B. A certification from an engineer needs to be submitted regarding the abandonment of the sewer line before the plat is forwarded to City Council. Otherwise, a guarantee for the sewer abandonment and temporary easement will be required.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved.**
- E. The perimeters of the proposed block shall match the perimeters of the CUP parcel boundaries. A CUP adjustment will need to be filed.
- F. The applicant is reminded that a 15-ft planting screen along Douglas shall be established.

- G. The Applicant is reminded that a platting binder is required. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- H. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of storm water.
- I. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- J. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- K. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- L. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- M. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- N. Perimeter closure computations shall be submitted with the final plat tracing.
- O. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- P. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- Q. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **COULTER** seconded the motion, and it carried unanimously (14-0).

MICHAELIS Once again since we are past the 1:30 p.m. timeline. Is there anyone here in the audience to speak on Item #8? Item #8 has been pulled.

MICHAELIS reads MAPC opening statement.

5-1. VAC2001-00020 – Request to vacate platted setback.

OWNER/APPLICANT: Elliot and Debra Werbin

AGENT: Robert Kaplan

LEGAL DESCRIPTION: Setback vacation request:
The west 23.2-ft of the platted 30-ft setback of Lot 5, Block Q, 5th Addition to the Village, along the Woodlawn frontage, for a distance of 32-ft beginning 0.10-ft off/north of the 8ft utility easement on the south end of Lot 5, Block Q, 5th Addition to the Village Addition 32-ft north.

LOCATION: Generally located northwest of the Kellogg – Woodlawn intersection

REASON FOR REQUEST: The applicant proposes to build an attached 27-ft x 32-ft garage.

CURRENT ZONING: Subject property is zoned SF-5 Single Family Residential. Properties to the north, south and west are zoned SF-5 Single Family Residential. Property to the east is in Eastborough and is residential.

Case History:
06-14-01 = SD Denied 5-0
06-21-01 = MAPC Deferred until 07-19-01
07-19-01 = MAPC Deferred 11-0, back to SD 08-16-01 and MAPC 08-23-01

08-16-01 = SD Approved 1-0
08-23-01 = MAPC Deferred 11-0, back to MAPC 09-06-01
09-06-01 = Wasn't heard, Applicant hadn't submitted required materials

The applicant has resubmitted a Site Plan that Staff feels meets the direction given to the applicant at the 08-23-01 MAPC meeting. The Site Plan also reflects the results of a meeting with the Planning Staff, Tim Martz, Superintendent Park & Recreation and Robert Kaplan, agent for the applicant, at the site, per directions given by the MAPC.

The applicant is requesting consideration to vacate 23.2-ft (per the description given in the legal description) of a platted 30-ft setback. The applicant proposes to build an attached 27-ft x 32-ft garage with an 8-ft high garage door. The garage will allow easier covered access to the applicant's handicapped equipped vans. The applicant currently has two attached, connected double garages (an approximate 25-ft x 25-ft and an approximate 24-ft x 22-ft) and an attached carport (an approximate 24.6-ft x 11.2-ft). The applicant (per recommendation from Tim Martz, Superintendent Park & Recreation, City of Wichita, who also attested to the good health of the 4 Austrian Pine) has agreed to put the garage at minimum of 15-inches from the west side of the farthest west pine tree (one of 4 Austrian pines that will remain as shown on the site plan, behind the existing fence), per the details outlined in the E-Mail in your packet. The applicant has agreed to post a bond to replace any of the pine trees killed in the construction of the garage, replacements per the recommendation of Tim Martz. Mr. Martz also suggest the planting of an additional shade tree in the Woodlawn ROW (out of the intersection site triangle) to further minimize the visual impact of the proposed garage. The applicant also proposes closing the current access off of Woodlawn and continuing the curb.

Note the differences in the SD recommendation as to what the Staff is recommending the MAPC consider for approval. This is based on the on direction given to Staff and the applicant by the MAPC at the 08-23-01 meeting; a site plan reflecting a meeting with the Staff, the applicant and or his agent and a member of the City Parks Department, who could make recommendation on issues regarding trees and screening. The site plan and the 10 conditions reflect that meeting.

Based upon the information available prior to the public hearing, Staff recommends the MAPC make the following findings and recommendation to the City Council:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
 1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time May 17, 2001, which was at least 20 days prior to this public hearing.
 2. That private rights will not be injured or endangered by the vacation of the above-described setback and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be approved.
- A. Therefore, the vacation of the setback described in the petition should be approved with the following conditions:
 1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 2. All improvements shall be according to City Standards.
 3. Guarantee the closure of the existing opening on Woodlawn from the applicant's drive and continue the curb and gutter.
 4. Dedicate complete access control along the applicant's property abutting Woodlawn Drive.
 5. Post a bond to cover any and all trees damaged or killed by the construction of the garage. Any and all replacement trees shall be of the same type and approximately the same size of the trees they are replacing, per recommendation of Tim Martz, Superintendent Park & Recreation, that being a minimum of 8-ft - 10-ft in height.
 6. Encroachment of the attached garage into the east 30-ft setback shall be 23.2-ft and a minimum of 15-inches from the west side of the farthest west pine, with the slab on grade and as little damage to the root system of the 4 Austrian Pine as possible during excavation, with the existing pines pruned up to a height of 8-ft - 10-ft, to allow for the construction of the sidewall of the garage.
 7. The proposed attached garage is built of the same materials and style to match the existing house and garages.
 8. Plant a shade tree such as saw tooth oak or shumard oak just north of the Woodlawn driveway in the Woodlawn ROW, but out of the sight visibility triangle, to minimize the visual impact of the proposed garage from Woodlawn traffic heading south.
 9. Keep the current fence up and in good repair to minimize the visual impact of the proposed attached garage.
 10. No encroachment into any easements.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval with the following conditions:

1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
2. All improvements shall be according to City Standards.
3. Guarantee the closure of the existing opening on Woodlawn from the applicant's drive and continue the curb and gutter.
4. Dedicate complete access control along the applicant's property abutting Woodlawn Drive.

5. Post a bond to cover any and all trees damaged or killed by the construction of the garage. Any and all replacement trees shall be of the same type and approximately the same size of the trees they are replacing.
6. Place the garage 6-ft behind the existing tree line (on the Woodlawn side) or 24-ft into the platted 30-ft setback, whichever is the greater distance from the property line.
7. The proposed garage is built of the same materials and style to match the existing house and garages.
8. No encroachments into any easements.

MICHAELIS Item 5-1, we need to take individually. Is there anyone here to speak on Item 5-2, 5-3, 5-4, or 5-5?

MCKAY I have a conflict of interest on Item 5-3 and need to abstain because I lease a building to Wesley Medical Center.

MICHAELIS Any further discussion on the Item? Is there anyone in the audience to speak on the Item 5-1?

WARREN Is this a vacation case we are talking about?

MICHAELIS Yes. Do we need to go into discussion on this Mr. Longnecker?

LONGNECKER The commissioners have the ten conditions for approval on this item. This is the result of the meeting between the applicant's agent, Mr. Miller, Tim Martz of the Park Department, and myself. Under the direction of this body, we were to get some dimension control on this site plan in regards to where this garage would be placed and also in regard to how to minimize visual impact by keeping the trees that are existing there and the fence. What you have with these ten items, unless you want me to go through them individually with you, is a consensus. I have gone over them with Tim Martz, and I have gone over these conditions with the Applicant's agent, Mr. Kaplan, and he agrees with the ten conditions.

MICHAELIS Mr. Kaplan, are you in agreement with these recommendations.

KAPLAN Yes, all of the conditions are acceptable to me.

MICHAELIS With that in mind we can continue and vote on the motion.

MOTION: To approve, subject to staff comments and citing the findings in their report.

WARNER moved, **BLAKE** seconded the motion, and it carried unanimously (14-0).

5-2. VAC2001-00056 - Request to vacate utility easements.

OWNER/APPLICANT: Rocky Creek LLC c/o Rob Ramseyer

AGENT: MKEC Engineering Consultants, Inc c/o Dean Sellers

LEGAL DESCRIPTION: Platted east 5ft of the south 132.32-ft of Lot 5, Block 3, Rocky Creek 2nd Addition, Wichita, Sedgwick County, Kansas.
Platted west 5ft of the north 132.32-ft of Lot 6, Block 3, Rocky Creek 2nd Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located northeast of the 13th Street North – 127th Street East intersection.

REASON FOR REQUEST: The applicant proposes to utilize the property now occupied by the utility easements.

CURRENT ZONING: Subject property is zoned SF-5 Single Family Residential. Properties to the east, west, north and south are zoned SF-5 Single Family Residential.

The applicant is requesting consideration to vacate the 10-ft utility easements that occupy the side yards between Lots 5 & 6, Block 3, Rocky Creek 2nd Addition. Staff recommends vacating the 10-ft utility easement between Lots 5 & 6, Block 3, Rocky Creek 2nd Addition, per the legal description, with conditions noted by City and private utilities.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time November 29, 2001, which was at least 20 days prior to this public hearing.

2. That private rights will not be injured or endangered by the vacation of the above-described utility easement, and the public will not suffer loss or inconvenience thereby.

3. In justice to the petitioner, the prayer of the petition ought to be approved.

B. Therefore, the vacation of the utility easement described in the petition should be approved subject to the following conditions:

1. Vacate that portion the utility easements, per exhibit and legal description ending at the point of intersection with the 12.5-foot utility and drainage easement in the rear yards of Lots 5 & 6, Blk 3, Rocky Creek 2nd Addition.

2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
3. All improvements shall be according to City Standards.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Vacate that portion the utility easements, per exhibit and legal description and ending at the point of intersection with the 12.5-foot utility and drainage easement in the rear yards of Lots 5 & 6, Blk 3, Rocky Creek 2nd Addition.
2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
3. All improvements shall be according to City Standards.

MOTION: To approve, subject to staff comments and citing the findings in their report.

COULTER moved, **BLAKE** seconded the motion, and it carried unanimously (14-0).

5-3. VAC2001-00057 – Request to vacate a utility and drainage easement

OWNER/APPLICANT: Wesley Medical Center c/o John Hromek

AGENT: LittleJohn Engineering c/o Wesley Wilkerson

LEGAL DESCRIPTION: Platted utility easement and the platted drainage easement on Lot 2, Wesley Medical Center 2nd Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located northeast of the Central Avenue East – Hillside Avenue North intersection.

REASON FOR REQUEST: The applicant proposes to redevelop the property.

CURRENT ZONING: Subject property is zoned GO General Office. Property to the east is GO General Office. Property to the west is zoned GO General Office and LC Limited Commercial. Property to the north is zoned TF-3 Two Family Residential. Property to the south is zoned B Multi-Family Residential and GO General Office.

The applicant is requesting consideration to vacate the platted 20-ft utility easement and the drainage easement as dedicated on Lot 2, Wesley Medical Center 2nd Addition. The applicant is proposing to redevelop the property by constructing a 4-story ICU addition with a canopy – drop off as an addition to the existing hospital. Staff recommends vacating the platted utility easement and the drainage easement as dedicated on Lot 2, Wesley Medical Center 2nd Addition, Wichita, Sedgwick County, Kansas.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time November 29, 2001, which was at least 20 days prior to this public hearing.
 2. That private rights will not be injured or endangered by the vacation of the above-described utility easement and drainage easement, and the public will not suffer loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be approved.
- B. Therefore, the vacation of the utility and drainage easements described in the petition should be approved subject to the following conditions:
1. Vacate that portion of the utility easement and the drainage easement per exhibit and legal description on Lot 2, Wesley Medical Center 2nd Addition, with the exception of that portion of the drainage easement that is over the drainage box. The drainage box is covered by a separate easement. This easement needs to be retained.
 2. Submit a drainage plan showing the new drainage pattern and dedicating a new drainage easement.
 3. Retain the utility easement until all utilities have been removed and dedicate new easement for the relocated utilities.
 4. There is sewer in the west utility easement, provide a guarantee to have the line moved
 5. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.

6. All improvements shall be according to City Standards.
7. SW Bell has equipment in the west easement; this easement needs to be retained until the applicant and SW Bell have reached an agreement on the relocation of the equipment. A new easement may be required to cover the relocated equipment.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Vacate that portion of the utility easement and the drainage easement per exhibit and legal description on Lot 2, Wesley Medical Center 2nd Addition, with the exception of that portion of the drainage easement that is over the drainage box. The drainage box is covered by a separate easement. This easement needs to be retained.
2. Submit a drainage plan showing the new drainage pattern and dedicating a new drainage easement.
3. Retain the utility easement until all utilities have been removed and dedicate new easement for the relocated utilities.
4. There is sewer in the west utility easement, provide a guarantee to have the line moved
5. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
6. All improvements shall be according to City Standards.
7. SW Bell has equipment in the west easement; this easement needs to be retained until the applicant and SW Bell have reached an agreement on the relocation of the equipment. A new easement may be required to cover the relocated equipment.

MOTION: To approve, subject to staff comments and citing the findings in their report.

HENTZEN moved, **COLUTER** seconded the motion, and it carried unanimously (13-0-1) **MCKAY** abstained.

5-4. VAC2001-00059 – Request to vacate an alley.

<u>OWNER/APPLICANT:</u>	USD 259
<u>AGENT:</u>	Joe Hoover
<u>LEGAL DESCRIPTION:</u>	Dedicated by separate instrument alley ROW on the north 20-ft of Lot 17, Lawrence's 3rd Addition, Wichita, Sedgwick County, Kansas.
<u>LOCATION:</u>	Generally located northwest of the South Seneca Street – West Maple Street intersection.
<u>REASON FOR REQUEST:</u>	The applicant proposes to redevelop the property.
<u>CURRENT ZONING:</u>	Subject property is zoned B Multi-Family. Property to the east is zoned B Multi-Family and LC Limited Commercial. Property to the west is zoned B Multi-Family zoned and MF-29 Multi-Family Residential. Property to the north is zoned B Multi-Family Residential and LI Limited Industrial. Property to the south is zoned MF-29 Multi-Family Residential.

The applicant is requesting consideration to vacate an alley ROW on the north 20-ft of Lot 17, Lawrence 3rd Addition, dedicated by separate instrument, film 229, page 224, recorded 02-1977 with the Register of Deeds. The applicant proposes to close the curb at the point of access on the alley and provide a private drive (to the south of the proposed vacated alley) for trash pick up. Currently the alley that runs north (approximately 75-ft long and 15-ft wide, per Martinson's 4th Add Plat) and south that intersects with the proposed vacated alley. The north – south alley appears to be not used or lightly used and resembles yard and playground. SW Bell has equipment in the area of the proposed private drive; the applicant and SW Bell are in the process of resolving this issue.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time November 29, 2001, which was at least 20 days prior to this public hearing.
 2. That private rights will not be injured or endangered by the vacation of the above-described alley, and the public will not suffer loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be approved.

- B. Therefore, the vacation of the alley described in the petition should be approved subject to the following conditions:
1. Vacate the north 20-ft of Lot 17, Lawrence's 3rd Addition, Wichita, Sedgwick County, Kansas, as dedicated by separate instrument, film 229, page 224, recorded 02-1977 with the Register of Deeds, except for the north 10-ft of Lot 17, Lawrence's 3rd Addition which shall be retained as a utility easement.
 2. Close the existing curb cut and continue the curb per City Standards.
 3. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 4. All improvements shall be according to City Standards.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Vacate the north 20-ft of Lot 17, Lawrence's 3rd Addition, Wichita, Sedgwick County, Kansas, as dedicated by separate instrument, film 229, page 224, recorded 02-1977 with the Register of Deeds except for the north 10-ft of Lot 17, Lawrence's 3rd Addition which shall be retained as a utility easement.
2. Close the existing curb cut and continue the curb per City Standards.
3. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
4. All improvements shall be according to City Standards.

MOTION: To approve, subject to staff comments and citing the findings in their report.

COULTER moved, **BLAKE** seconded the motion, and it carried unanimously (14-0).

5-5. VAC2001-00060 – Request to vacate utility easements.

OWNER/APPLICANT: USD 259

AGENT: Joe Hoover

LEGAL DESCRIPTION: Established by Ordinance 11-542, a utility easement in the alley between Lots 2- 24 on the Market St side and 1-23 on the Main St side, English's 6th Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located southwest of the West Harry Street – West Maple Street intersection.

REASON FOR REQUEST: The applicant proposes to redevelop the property.

CURRENT ZONING: Subject property is zoned TF-3 Two-Family and LC Limited Commercial. Properties to the east and west are zoned TF-3 Two-Family and LC Limited Commercial. Property to the north is zoned LC Limited Commercial. Property to the south is zoned TF-3 Two-Family Residential.

The applicant is requesting consideration to vacate an alley, retained by Ordinance 11-542 as a utility easement, between Lots 2- 24 on the Market St side and 1-23 on the Main St side, English's 6th Addition, Wichita, Sedgwick County, Kansas. The applicant proposes to expand the existing Harry Street Elementary School. The easement is 20-ft wide.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time November 29, 2001, which was at least 20 days prior to this public hearing.
 2. That private rights will not be injured or endangered by the vacation of the above-described utility easement and the public will not suffer loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be approved.
- B. Therefore, the vacation of the utility easement described in the petition should be approved subject to the following conditions:
1. There is sewer in the easement and there are manholes in the easement, the easement needs to be retained or the sewer/manholes needs to be relocated at the applicant's expense, with any improvements done to City Standards. If relocated a new easement needs to be provided.

2. If the manhole and sewer line is to be moved the applicant needs to provide a guarantee to the City.
3. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
4. All improvements shall be according to City Standards.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. There is sewer in the easement and there are manholes in the easement, the easement needs to be retained or the sewer/manholes needs to be relocated at the applicant's expense, with any improvements done to City Standards. If relocated a new easement needs to be provided.
2. If the manhole and sewer line are to be moved the applicant needs to provide a guarantee to the City.
3. If relocated a new easement needs to be provided. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
4. All improvements shall be according to City Standards.

MOTION: To approve, subject to staff comments and citing the findings in their report.

COULTER moved, **BLAKE** seconded the motion, and it carried unanimously (14-0).

6. **CON2001-00055** – Dome LLC c/o Ron Mann, Chuck Caro, Quentin & Sonya Moeder, and Steve & Keri Martin (owners) Requests a Conditional Use for sand extraction to expand existing lake, on property described as:

That part of the NW/4 of Section 28, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, lying North of the K-96 Highway Right-of-Way as condemned in Case C-8172-66, Except the East 334 feet thereof.

Parcel "A": The West 1135.6 feet of the East 1470 feet of the NW/4 of Section 28, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, lying North of the K-96 Highway Right-of-Way as condemned in Case C-8172-66.

Parcel "B": The West 560.55 feet of the East 2035.55 feet of the NW/4 of Section 28 Township 26, South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, lying North of the K-96 Highway Right of Way as condemned in Case C-8172-66.

Parcel "C": That part of the Northwest Quarter (NW/4) of Section 28, Township 28 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, lying North of the K-96 Highway Right-of-Way as condemned in Case C-8172-66, Except the East 2030.55 feet thereof. Generally located South of 45th Street North and east of Tyler.

BACKGROUND: The applicant is requesting a Conditional Use to allow sand and gravel extraction on a 113.6 acre unplatted tract located south of 45th Street North and east of Tyler. The subject property is zoned "RR" Rural Residential. The subject property is located within the Zoning Area of Influence for the City of Maize.

The subject property is within a zone likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Information pertaining to wetlands from the Sedgwick County Soil Conservation District and Soil Survey of Sedgwick County indicates that the subject property contains soil commonly associated with wetlands. Alteration of any wetlands must be approved by the Army Corps of Engineers. The subject property contains the floodway for the Big Slough; therefore, the Sedgwick County Public Works Department will require a drainage plan, including easements, reserves, or covenants (as applicable) to ensure that the floodway is properly maintained. The subject property also is located within the Equus Beds Groundwater Management District #2. Planning staff notified the Groundwater Management District of the Conditional Use request; however, the District had not provided any comments on the request at the time this report was prepared.

The character of the surrounding area is primarily agricultural with the exception of an industrial use located at the northwest corner of 45th Street North and Tyler and an airstrip located immediately east of the subject property. The City of Maize is located approximately 1/3 of a mile west of the subject property, and the City of Wichita is located approximately 1/3 of a mile southeast of the subject property. Most of the property surrounding the subject property is zoned "RR" Rural Residential. Approximately 2/3 of an acre located at the northeast corner of 45th Street North and Tyler and 2.3 acres located immediately east of the subject property on the south side of 45th Street North are zoned "LI" Limited Industrial. Some of the property south of the subject property across K-96 is zoned "SF-20" Single-Family Residential.

The subject property currently has an approximately 28-acre lake in the eastern portion of the property that was created as a "borrow pit" for the construction of the K96 expressway. The borrow pit has not been excavated in a manner that meets the standards of the Unified Zoning Code for sand and gravel extraction. The applicant proposes to complete the excavation of the borrow pit as well as expand the sand and gravel extraction by approximately 16 acres per the attached "Proposed Operational Plan."

The Proposed Operational Plan shows a fence only around the perimeter of the plant site rather than around the entire property as is required by the Unified Zoning Code. Storage of equipment and material would be restricted to the plant site, which is proposed to be located 450 feet east of Tyler and 500 feet south of 45th Street North. Excavation of sand and gravel from the site is proposed to be undertaken in 4 phases totaling 8 years in excavation time.

Access to the plant site is proposed from Tyler, a paved, section-line road. At the time this report was prepared, planning staff was still reviewing access issues with Sedgwick County Public Works. From a road maintenance standpoint, it is preferable for access to the plant site to be from a paved road. From a traffic safety standpoint, it is preferable to limit access near the Tyler overpass, which limits sight distances for northbound traffic. Additional information regarding the access issue will be presented at the public hearings. Planning staff also may recommend additional conditions of approval to address access, such as a right turn lane or relocating the access drive to 45th Street North.

The Unified Zoning Code requires that a redevelopment plan for sand and gravel extraction sites be reviewed by the Planning Director with a recommendation to the Planning Commission as to whether or not the redevelopment plan is compatible with surrounding land uses and comprehensive plans or other policies pertaining to land use in the area. The attached "Redevelopment Site Plan" shows that 143 single-family residences are proposed for the site, with a typical lot size of approximately 10,000 square feet. The redevelopment of the site with single-family residential uses is mostly consistent with land use plans for the area; however, current zoning and the lack of public water and sewer service to the site would not permit the residential density proposed for 10-20 years or more. Additionally, the Redevelopment Site Plan shows residential lots located immediately at the corner of 45th Street North and Tyler, which is inconsistent with Maize Comprehensive Plan (attached) that indicates the corner should be reserved for commercial uses. Further, the Wichita-Sedgwick County Comprehensive Plan indicates that the Northwest Bypass will likely intersect with K-96 at the southwest corner of the subject property; therefore, additional right-of-way may be needed along the southern boundary of the subject property. Finally, the proposed sand and gravel extraction would extend to the 45th Street North right-of-way, which could lead to potential erosion problems along the road right-of-way and would limit the number of potential home sites that could be located around the lake and, consequently, the tax base generated by the property.

CASE HISTORY: The site is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	"RR" & "LI"	Agriculture
SOUTH:	"RR" & "SF-20"	Agriculture
EAST:	"RR" & "LI"	Airstrip
WEST:	"RR"	Agriculture; manufacturing

PUBLIC SERVICES: This site has access to Tyler, a two-lane, paved section line road, and 45th Street North, a gravel section line road. Access to the sand plant site is proposed to be from Tyler. There are no current traffic volume figures available for Tyler or 45th Street North. The 2030 Transportation Plan estimates that the traffic volume on Tyler will be approximately 1,500 vehicles per day in 2030. Municipal water and sewer services are not currently available to serve this site, and the site is located just inside the 30 year urban service area. Use of the site for sand and gravel extraction can be supported by on-site water and sewer service.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Wichita/Sedgwick County Comprehensive Plan identifies this area as appropriate for "Low Density Residential" development. The Comprehensive Plan for the City of Maize indicates that the site is appropriate for residential use with the exception of the northwest corner of the site, which should be reserved for commercial uses. The Wichita/Sedgwick County Comprehensive Plan indicates that industrial uses in rural areas should be limited to those that are agriculturally oriented, dependent upon a natural resource, or part of an appropriate expansion of an existing industrial use.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. All requirements of Section III.D.6.gg. of the Unified Zoning Code (attached) shall be met.
2. The approval of the Conditional Use is for a period not to exceed 8 years from the date of approval of the Conditional Use by the MAPC or governing body, as applicable.
3. The applicant shall submit a revised operational plan for approval by the Planning Director within 60 days of approval of the Conditional Use by the MAPC or governing body, as applicable. The revised operational plan shall include the entire subject property and shall illustrate the location of the fence around the entire perimeter of the subject property in accordance with Sec. III.D.6.gg. (4) of the Unified Zoning Code. Additionally, the revised operational plan shall reduce the size of the Phase 3 excavation area so that the area of excavation does not extend beyond 350 feet south of the south right-of-way line of 45th Street North.
4. The applicant shall submit a revised redevelopment plan for approval by the Planning Director within 60 days of approval of the Conditional Use by the MAPC or governing body, as applicable. The revised redevelopment plan shall include property for commercial uses at the southeast corner of 45th Street North and Tyler and single-family residences and/or an open space reserve south of 45th Street North and north of the excavated lake.
5. The applicant shall dedicate by separate instrument right-of-way for 45th Street North and Tyler Road pursuant to Article 7-201(H) of the Wichita-Sedgwick County Subdivision Regulations. The dedication instrument shall be submitted to the Planning Director within 60 days of approval of the Conditional Use by the MAPC or governing body, as applicable.
6. Documentation that all applicable local, state, and federal requirements (i.e., covenants, easements, right-of-way, wetlands permits, water rights, drainage plan, etc.) necessary for the extraction operation shall be submitted to the Planning Department prior to the issuance of the resolution authorizing the Conditional Use.

7. Any violation of the conditions of approval shall declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is primarily agricultural with industrial type uses located east and northwest of the subject property. The zoning of the area is primarily "RR" Rural Residential, with "LI" Limited Industrial zoning in the areas of industrial use. The extraction of sand and gravel in this location is consistent with the zoning, uses, and character of the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The "RR" Rural Residential zoning designation of the subject property permits sand and gravel extraction upon approval of a Conditional Use. Additionally, since the borrow pit on the site does not conform to the Unified Zoning Code's standards for extraction area, the future development of the subject property with residential uses could be hindered unless the excavation area can be brought up to current standards through approval of a Conditional Use for further extraction on the subject property.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Any detrimental affects on nearby property should be minimized by the various setback requirements and operational restrictions required as conditions of approval.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Wichita/Sedgwick County Comprehensive Plan indicates that industrial type uses such as sand and gravel extraction are appropriate in rural areas where the natural resource is located. The Land Use Guide of the Wichita/Sedgwick County Comprehensive Plan identifies this area as appropriate for "Low Density Residential" development. The Comprehensive Plan for the City of Maize indicates that the site is appropriate for residential use with the exception of the northwest corner of the site, which should be reserved for commercial uses. A redevelopment plan is required as a condition of approval to ensure that the site can be redeveloped in accordance with these land use guidelines upon completion of the extraction operation.
5. Impact of the proposed development on community facilities: The development of this property as a sand and gravel extraction operation should not have a significant impact on community facilities. The site has access to a paved, section-line road, and on-site water and sewer services can adequately serve an extraction operation at the site.

MICHAELIS Once again, Item 8 is being pulled. So we have public hearings on 6, 7a and 7b, 8, 9, 10, 11, and 12. Are any individual's here to speak on any of those items?

AUDIENCE CON2001-55, Item 6, I have some questions and concerns about that item.

MICHAELIS Any other items that anyone else is here to speak on? Once again, item number 6, is there anyone here to speak on Item number 6? Just the one gentleman. Item 7a and 7b, 8, 9, 10, 11, and 12, we will take them individually.

SCOTT KNEBEL, Planning Staff, reviewed the staff report, site plan, and operational plan for Item 6. Planning staff recommends approval subject to seven conditions. This property is located within the "area of influence" of the City of Maize; however, they did not make a recommendation to this body due to a lack of quorum at their meeting. The staff report mentions that there was some issues to work out with access and, we have worked those out. The access is shown on 45th Street and that is the preferred location for access from Sedgwick County Public Works. They don't have any requirements for additional road improvements associated with this project either. The Planning Department is requesting a condition of an 8 year time limit which is based on the applicant's plan. A revised operational plan is requested because, as you can see, this one contains only a portion of the subject property, and we need a revised plan that contains the entire acreage that is going to be covered by the Conditional Use and would also show the location of the fence around the entire property rather than around the sand plant site which is shown in this location. The other conditions would be the dedication of right-of-way up to current standards for the two arterial streets that adjoin the property.

BLAKE Does the City of Maize have a problem with this request?

KNEBEL Maize did not make a recommendation, but I did speak with City Administrator from the City of Maize who indicated that they are tired of having sandpits in their area. They pointed out their Comprehensive Plan indicates that this corner property at 45th and Tyler should be reserved for commercial uses, rather than residential uses. We do make that recommendation, that the redevelopment plan provide for commercial property to address that issue.

GAROFALO Is there a question here about the wetlands?

KNEBEL Yes, he will have to get the wetland permits and comply with all of the Army Corps of Engineer requirements.

GAROFALO Has the Army Corps of Engineers approved of this yet?

KNEBEL I don't know if the applicant has made that application at this point or not. Typically, on these Conditional Uses the local approval is required first before they move forward with getting approvals from the State and Federal government.

GAROFALO What about the Equus beds?

KNEBEL We did notify, and we did not receive any comments from the Equus beds district, but we did notify them of this request.

RON LEE, applicant Equus Beds District did grant approval of sandpit. He had a letter dated December 12th of water extraction, levels of the wells in the area, the dredging process was approved both at the Equus Beds Groundwater Management District, and the State of Kansas has approved that process. We are in agreement to meet all the conditions. Maize does not want it to go clear to 45th Street or clear to the street.

MICHAELIS You are in favor of all the staff recommendations and comments?

LEE Yes.

GAROFALO You say you have a letter from the Equus Beds District? Can you make that a part of the record?

LEE No problem at all. I will supply a copy to Planning staff.

MOTION: To approve, subject to staff comments and citing the findings in their report.

HENTZEN moved, **JOHNSON** seconded the motion, and it carried unanimously (14-0).

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- 7a. **ZON2001-00068** – Asphalt Paving (H.T. Ritchie, Ritchie Corp.) request Zone Change from “SF-20” Single-Family Residential and “LC” Limited Commercial to “LI” Limited Industrial ; and

Zone change request from “SF-20” Single-Family Residential to “LI” Limited Industrial, on property described as:

That part of the SE ¼ of Section 26, Township, 26, Range 1 West lying south of K-96 Highway, except the west 660 feet thereof and except that part planted as Lot 1, BFI Addition, Sedgwick County, Kansas and except the south 600 feet of the east 600 feet and except that part taken for road. Generally located on the northwest corner of 37th Street North and West Street.

Zone change request from “LC” Limited Commercial to “LI” Limited Industrial, on property described as:

The south 600 feet of the east 600 feet of the SE ¼ of Section 26, Township 26, Range 1 West, except that part taken for road. Generally located on the northwest corner of 37th Street North and West Street.

- 7b. **CON2001-00063** - Asphalt Paving (H.T. Ritchie, Ritchie Corp) request a Conditional Use to develop a construction and demolition waste landfill, on property described as:

A tract of land lying within the SE 1/4, Sec. 26, Twp. 26-S, R-1-W, of the 6th P.M., Sedgwick County Kansas, described as commencing at the SE corner of said SE 1/4; thence N90 degrees 00'00"W, along the south line of said SE 1/4, 600.00 feet; thence N00 degrees 00'00"E, 50.00 feet to the southeast corner of Lot 1, BFI Addition, Sedgwick County, Kansas, also the point of beginning; thence N00 degrees 00'00"E, 610.00 feet to the NE corner of said Lot 1; thence N90 degrees 00'00"W, 1200.00 feet, to the NW corner of said Lot 1; thence N00 degrees 00'00"E, 1260.20 feet; thence S65 degrees 32'32"E, 936.74 feet; thence S57 degrees 56'33"E, 120.62 feet; thence S47 degrees 18'56"E, 492.68 feet; thence S43 degrees 00'32"E, 307.91 feet; thence S00 degrees 10'57"E, along the north right of way line of 37th St. North, 834.18 feet; thence N90 degrees 00'00"W, along the north right of way line of 37th St. North, 80.00 feet; thence S00 degrees 10'57"E, along the north right of way line of 37th St. North, 25.00 feet; thence N90 degrees 00'00"W, along the north right of way line of 37th St. North, 249.84 feet to the point of beginning (contains 1,502,064.6 Square Feet, or 34.483 Acres).

BACKGROUND: The site is located at the southwest corner of K-96 Highway and West Street. The applicant is seeking “LI” Limited Industrial zoning on the entire application area of 57 acres, and a Conditional Use permit to allow a construction and demolition waste landfill on 35.89 acres of the total 57 acre site. The site is currently zoned “SF-20” Single-family residential and “LC” Limited Commercial. The application area is an upside down “U” shaped tract of un-platted ground. The open end of the “U” shaped application area encloses an existing solid waste transfer station (Waste Connections) on all sides except the south.

This same applicant has previously received zoning to operate a C&D landfill across the street diagonally from this application area – southeast corner of West and 37th Street. However, the Kansas Department of Health and Environment (KDHE) has withheld the issuance of their permit. At issue is the question: Is the Arkansas River/Wichita-Valley Center Floodway at this location considered to be a navigable river? There is a prohibition on locating landfills within a ½ mile of a navigable river. The applicant has filed legal action against KDHE in the hope that the court will order KDHE to issue the permit for the earlier site. If that were to happen, the applicant states they would not use the site covered by this current application for a C&D landfill while the other site is in operation. The site under consideration today is just over a ½ mile from the river removing that issue from consideration for this application.

The site is currently vacant, and has been used for sand extraction. There is a highway interchange at the K-96 and West Street intersection that provides convenient access to the site for the greater Wichita area. The site plan submitted with the application indicates the access road to the landfill would be located off of 37th Street, approximately 175 feet east of the entrance to the solid waste transfer station. Scales and a scale house are to be located at the end of the access road that would parallel the east line of the transfer station property. Setbacks from the proposed toe of the landfill material to the property line vary in distance from 200 feet to 100 feet. A landscape buffer is depicted along the easternmost frontage of the application area located along 37th Street and along West Street. Three ground water monitoring wells are shown along the east and northern property lines. Based on comments made at a recent County Solid Waste Management Committee meeting: the disposal area would be built up to a height of 70 feet; they expect to receive between 100 to 300 tons of material per day; anticipate a life expectancy between 15 and 45 years; and they expect to recycle 60% or more of the material received. The applicant states they will have crews who sort through the material and divert recyclable and inappropriate material from the C&D landfill to more appropriate facilities (e.g. loads of

concrete or asphalt would be sent to Ritchie's asphalt plant across the street; municipal solid waste would be sent to the transfer station).

This site does not need approval for a "transfer station" as the sorting and diverting of inappropriate material from this site is considered to be incidental to the primary C&D landfill operation. The applicant's are not advertising this as an appropriate place to deliver all types of waste, nor do they encourage or want inappropriate materials to be delivered to the site. In order to minimize the number of errant loads, the applicant works with contractors, and others who are likely to be regular customers, to ensure that loads are properly directed to the appropriate disposal facility as they leave the job site.

Surrounding land uses include: the City's closed municipal solid waste landfill and proposed C&D landfill, asphalt processing, sand extraction, rock crushing, C&D landfill (Ritchie property located east of West Street that denied a permit by KDHE), spent sand pits and farm ground. Surrounding properties are zoned "SF-5" Single-family Residential (old landfill which is part of the City of Wichita), "SF-20" Single-family Residential and "CU" to permit a C&D landfill (Ritchie property noted earlier). This same applicant also currently operates a C&D transfer station located at the northeast corner of 29th Street and West.

The project has been reviewed by Sedgwick County's Solid Waste Management Committee and has received their approval. Licensing by the County is required as is conformance with the County's C & D landfill design and operation requirements. Pertinent site design requirements include:

- A. No operations shall be located closer than 500 feet of an occupied dwelling, school, or hospital that was occupied on the date when the owner first applied for a permit, unless the owner of such dwelling, school or hospital consents in writing. (A residential structure exists on the northeast corner of 37th and West, but it does not appear to be occupied or used as a dwelling.)
- B. Newly permitted C&D facilities shall maintain a minimum 150-foot buffer from the edge of the C&D landfill's property line. (The current plan does not comply with entirely comply these design requirements along the east and south sides where the setback ranges between 135 and 30 feet. The site plan will need to be revised in the event the County Commission does not grant a reduction in the size of buffer required.)
- C. Surface water drainage and control systems shall divert surface water away from areas where waste is present or from operational areas.
- D. Discharge of pollutants is prohibited.
- E. C&D facilities shall be reasonably screened from adjacent roads, streets, and commercial or residential properties except at points of ingress and egress, to a minimum height of 8 feet by the use of berms, walls, fences or plantings. (Landscaping is shown along the east and south line of the project, but not along K-96. Unless a waiver is obtained, or the perimeter fill area is to act as the required screen, the site plan will need to be revised.)
- F. Landscaping shall be maintained in proper order.
- G. Facility property and property within one-half mile from the facility shall be kept reasonably free of debris, litter or vectors resulting from the C&D facility.
- H. Access roads to the facility shall be all-weather and negotiable at all times. Load limits on bridges and access roads shall be sufficient to support traffic generated by the facility.

Location restrictions include:

- A. C&D facilities shall not be located within the 100-year floodplain unless protected by flood control levees.
- B. C&D facilities will not cause significant degradation of wetlands. (Applicant states they have a letter from the Corps of Engineers stating that this is not a wetland area.)
- C. C&D facilities will not result in the destruction of critical habitat of endangered or threatened species nor contribute to the taking of same.
- D. The vertical separation between the lowest point of the lowest cell and the predicted maximum water table elevation shall be sufficient to maintain a five foot vertical distance between deposited material and the water table elevation.
- E. No permit for a C&D facility shall be issued on or after the effective date of this resolution if such area is located within 1 mile of an intake point for any public water supply system. (Staff is unaware of any public wells within a mile of this location.) The owner may petition the County Commissioners for an exception based upon proof of protection of the public water supply.

Given this site's proximity to K-96 Highway and the massive landform that Brooks landfill already creates, it is critical to evaluate this request with respect to the landform this project will ultimately create – a 70 foot high mound – adjacent to Brooks and K96 Highway. K-96 is a true "gateway" to and from northwest Wichita. The final grades on the site should be "less engineered" looking and more sculptural in appearance. There should also be tree plantings along the base of the fill area with an appropriate setback.

CASE HISTORY: CU 115, approved in 1968, permitted sand extraction.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-5" Single-family; K-96 Highway, former Brooks Landfill

SOUTH: "SF-20" Single-family, "LC" Limited Commercial and "LI" Limited Industrial; sand pit and solid waste transfer station

EAST: "SF-20" Single-family, "LC" Limited Commercial and "LI" Limited Industrial; agriculture, sand pit, asphalt plant and C&D Landfill

WEST: "SF-20" Single-family; agriculture

PUBLIC SERVICES: West Street is a paved two-lane arterial roadway. County Public Works indicates the paving is thicker than normal due in part to the higher than usual volume of truck traffic. 37th Street is paved to the entrance of the solid waste transfer station and has a continuous right-turn lane from West Street to the entrance of the transfer station. It is anticipated that twenty-five to thirty trips per day are to be generated by this facility. No public sewer or water services exist in this general area.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide" depicts this site as appropriate for industrial uses. Location guidelines contained in the Comprehensive Plan indicate that industrial uses should be located near support services and be provided with good access to major arterials and should be extensions of existing industrial uses. The plan does not have location guidelines for C&D landfills. However, plan objectives recognize the need to minimize the potential for environmental contamination while maintaining cost efficiency by proper management of construction debris generated within the county.

RECOMMENDATION: MAPD is somewhat reluctant to recommend approval of this type of request for a large tract that has good access to major transportation routes, and will have access in the future to municipal water and sewer services be precluded from future re-use. However, based upon information available prior to the public hearings, planning staff recommends that the request for "LI" Limited Industrial zoning be APPROVED, and the Conditional Use to permit a construction and demolition landfill be APPROVED.

The Conditional Use is subject to the following conditions:

- A. Demolition and construction solid waste resulting from the construction, remodeling, repair, repair and demolition of structures, roads, sidewalks and utilities as further defined in K.S.A. 65-3402(u) shall be the only landfill material permitted. Household solid waste, hazardous or toxic wastes, as defined by K.S.A. 65-3430 et. seq. shall not be permitted for disposal at this site.
- B. The landfill operation shall obtain all applicable permits or licenses. Operations shall proceed in accordance with all conditions established by the Kansas Department of Health and Environment (KDHE), Wichita-Sedgwick County Health Department, FEMA, the Corps of Engineers, the Department of Wildlife and Parks or any other agency having jurisdiction or oversight authority for the activities conducted on the application area.
- C. A landfill operator shall be on the site during all hours of operations for the purpose of screening incoming loads for authorization, inventory of the type, size and quantity of loads, and direction of loads to the appropriate cells. Access to the subject property shall be prohibited except during the hours of operation.
- D. The delivery of construction and demolition waste to the site shall be only by way of West Street to 37th Street and west to the entrance drive.
- E. A minimum 6-foot high fence shall be installed around the perimeter of the site to minimize the blowing of any materials onto adjacent properties. The fence shall be either chain link or welded or woven wire with openings no larger than two inches. The fence shall be installed prior to the beginning of filling operations.
- F. Upon written notice of any violation by the appropriate zoning administrator or any agency authorized to permit, review or evaluate operations, operations shall cease and the violation shall be corrected within 48 hours.
- G. A detailed grading/drainage plan shall be submitted to the Sedgwick Department of Public Works and the Wichita Parks Director for review and approval prior to commencement of operations. As part of that review, the Department may require that easements be dedicated for drainage purposes. A copy of the approved grading and drainage plan shall be submitted to the Planning Department for filing with other case materials. The operation of the landfill shall be in conformance with the approved grading and drainage plan, and with the "Site Plan". Landfill operations shall be conducted so as to minimize the area that could blow. In order to minimize the potential for blowing material, a maximum of 3 acres at any one time may be utilized as fill area. Prior to the opening of any new area, the previous area shall be graded and seeded with at least 18 inches of clean cover material. All fill, work or drive areas shall be maintained in a manner that minimizes blowing dust or fugitive material.
- H. Material is to be piled no higher than 70 feet. Filling shall be phased so as to create an initial "slope" face along K-96 Highway in order to create a screen for later filling activity.
- I. A landscape plan shall be submitted for review and approval by the Director of Planning and the Wichita Parks Director. All plant materials shall be maintained in good condition and shall be replaced as necessary. Trees shall be installed in the buffer areas between the boundaries of the Conditional Use and the right-of-way lines along K-96, West Street and 37th Street at a rate of at least one tree per thirty feet of frontage. The landscaping is to be installed within one year of publication of the resolution making this rezoning effective.
- J. Right-of-way dedications commensurate with those required by the Subdivision regulations shall be required if existing rights-of-way are substandard.
- K. The C&D landfill shall developed and operated be in compliance with all conditions of approval or this Conditional Use shall be considered null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All nearby surrounding properties are zoned "SF-20" Single-family Residential, "SF-5" Single-family Residential, "LC" Limited Commercial or Conditional Use to permit sand extraction, asphalt plant or solid waste transfer station. The character of the area is industrial with a closed landfill, sand extraction, asphalt plant and a solid waste transfer station.
2. The suitability of the subject property for the uses to which it has been restricted: The bulk of the property is currently zoned "SF-20" Single-family Residential while a corner located at the northwest corner of 37th and West Street is zoned "LC" Limited Commercial. The "LC" tract could be developed as zoned given the wide range of uses permitted by the "LC" district. The "SF-20" zoned property is less likely to be developed as zoned given its proximity to the various

industrial uses already located in close proximity to the application area, and the low lying topography created by the sand extraction operations conducted on this site in the late 1960's.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: If properly designed and managed, a C&D landfill in this location should not detrimentally affect nearby properties.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: C&D landfill space is needed to handle the community's demolition waste needs. There currently is only one licensed C&D landfill in the greater Wichita area. A choice of C&D facilities would ensure additional space for future needs and fair pricing. The creation of a second significant landform across the road from Brooks Landfill could negatively impact the "gateway" to and from northwest Wichita if the site is not managed and finished in a sensitive manner. A filling scheme that creates a berm along K-96, which can screen later filling activity, landscaping along road frontages and adequate setbacks can mitigate impacts on the public. These mitigating improvements can be accomplished with minimal cost or inconvenience to the applicant.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "Wichita Land Use Guide" depicts this site as appropriate for industrial uses. Location guidelines contained in the Comprehensive Plan indicate that industrial uses should be located near support services and be provided with good access to major arterials and should be extensions of existing industrial uses. The plan does not have location guidelines for C&D landfills. However, plan objectives recognize the need to minimize the potential for environmental contamination while maintaining cost efficiency by proper management of construction debris generated within the county.
6. Impact of the proposed development on community facilities: Approval of the request would provide additional C&D landfill space necessary to meet anticipated needs. Roads to the site are already constructed to meet truck traffic. This type of use has minimal sewer and water needs, which can be met without the presence of public services.

MICHAELIS Items 7A and 7B are we taking them together or separately?

DALE MILLER, Planning Staff, we will take them together. Miller presented the staff report and site plan. Planning staff recommends that the request for "LI" Limited Industrial zoning be approved, and the Conditional Use to permit a construction and demolition landfill be approved. The main concern staff has is they are now going to have two mounds of dirt on either side of K-96 which will provide a dominate entry feature to northwest Wichita. We want landscaping on K-96 for screening. They are required to screen the site from adjacent roadways.

JOHNSON Do you know if Brooks landfill is still open for construction and debris?

MILLER What I was told was that they don't have their permit. They are in the process to get the C & D license, yes.

GAROFALO In your recommendation, you say MAPD is reluctant to recommend approval?

MILLER On the east side of town where K-96 bends around at Greenwich Road. That NE corner is a cemetery. On the south side of 21st, in that same location, we now have church row there. With all the infrastructure that goes into place there, we would have thought that those areas would have been used for more intense uses. Eventually this is going to have sewer and water to it, and you do have a full blown interchange already in place. Once this particular project is over with it is going to be virtually unusable for anything but a passive type use at 70 feet tall, and we would have rather to seen this particular site used for something more intensified, appropriate to the location, and to the potential municipal services that will eventually be there.

RUSS EWY, agent for the applicant's stated we are in agreement with staff comments with three exceptions to conditions G, H, and I.

Items G and Item I: They both reference landscaping and grading/drainage plans being submitted to the Wichita Park Director for review and approval. We don't see the need for that and question why it would be in the staff report. This is a County project and would like to have references to having approval by the Wichita Park Director struck from both of those conditions.

Item H: We would like clarification of the second sentence. It says "filling shall be phased so as to create an initial slope face along K-96 Highway in order to create a screen for later filling activity". We are in complete agreement with creating a berm and screening along K-96. What we are proposing is to initially fill the southwest corner of the site and work back to the east. We would like to begin our filling operations in the southwest corner, but in order to comply with Item H we would prefer to go ahead and build our berm initially right off the bat, get a berm and landscaping in place at the commencement of operations and then fill the site internally as best suited to our operation. So I think in clarifying Item H we wouldn't actually be putting C & D material initially up against K-96 highway. We much prefer to build a simple berm and put the landscaping on there and commence filling from the southwest corner. We do have a gentlemen here, Alan Chappel, who is a consultant who can again best explain some of the operations of the C & D landfill if you so chose to hear his presentation. We have material to hand out discussing our operations which you might find informative. So I will stand for any questions you have initially; otherwise, I will turn it over to Mr. Chappel.

MCKAY You say you will build a berm, are you going to build a 70 foot berm?

EWY We are going to build an 8 foot berm.

MCKAY That is going to beautify the highway?

EWY I am not sure what is going to beautify the highway from a 70 foot mound.

BISHOP I am trying to clarify myself where the City and County lines are? I see both Sedgwick County and Wichita on there and can you clarify for me where the boundaries are?

EWY I am going to begin and go west to east. The City limits run along the north right-of-way line of K-96 and continues down on the east side of the "big ditch". (Indicating on the map).

BISHOP This property is within the Sedgwick County?

EWY Yes.

BISHOP They don't want to have anything approved by the Wichita Park Director?

EWY I think that would be fair to say.

WARREN So that I understand Item H, in-lieu of this gradual sloping that has been required here in Item H, you say you are going to put a berm in there. But I understand the berm will be something temporary to screen in effect, until you later on decide to slope the whole thing?

EWY You heard this last year. This is the exact same operation, but simply a different location. As Dale mentioned, to keep it further away from the river. So without getting into too much detail, the construction of this landfill will have what we call a "toe-berm" which is a 8 foot berm around the perimeter base of this landfill. What we have proposed to do in the past is simply build the "toe-berm" as we fill. So that "toe-berm" would expand around the site as the filling progresses. In this situation, to try and meet the screening needs described here in the staff report and prescribed by the C & D transfer station regulations in the County we are simply saying that we will build this "toe-berm" which is a function of the overall landfill initially. Instead of phasing it, in we will build it up front.

WARREN I am familiar with what is taking place now at K-15, I think it is a Cornejo C & D site. Is that kind of what we are talking about? What kind of wording would be in Item H that would satisfy your needs?

EWY Filling may be phased so as to create an initial slope faced along K-96 in order to create a screen for later filling activity or an 8 foot berm. If you notice Item E, pertinent site design requirements on the previous page discusses a little bit about screening from adjacent roadways. So we would seek Item H to comply with that regulation.

BARFIELD In Item I, I think you said both G and I are the same but, would you have a problem with leaving the word "review" by the Wichita Parks Director in there?

EWY I think that would be more suitable. We question the relevance of having it in there to begin with, but I think our most pressing objection would be any type of approval.

JOHNSON Why would the City's approval and the Park Director approval be in this report?

MILLER Ultimately this property will be annexed into the City of Wichita. It will end up being the responsibility of the City of Wichita to take care of for the life of this thing until it is completely over, and that it would be nice to know that when it is done it will actually be usable because there is a plan to use Brooks for passive recreational activity that the Park Department is developing currently. The idea is that both of these two uses, once they are done, would be compatible to each other and we just want to make sure that when it is done that it is something that the Park Department would be able to use. Unless somebody has a better idea I am not sure what else you can do with an old C & D landfill except as a passive recreational activity.

MICHAELIS There is not a berm on Brooks is there? It just starts as a slope and goes up?

MILLER They are finishing. They are going to put the final cap on it, the final cover, and that soil is going to be reshaped to some degree. I don't know how much and then seeded and left in place.

MICHAELIS Chances are they are not going to come down and construct a new berm?

MILLER No, there is not enough room to do that the way that it is sloped today.

BISHOP I don't know, but I assume the approval by the Director of Planning would be left in.

EWY We like him. I don't think we have any other problems with the rest of the recommendations.

MCKAY We talk about landscaping. Is the landscaping plan going to be presented up front?

KROUT Yes.

MCKAY To eliminate H in that landscaping plan, could that be part of what you are saying there? Refer to the 8 or 10 foot high berm or whatever that might be?

KROUT I think that an 8 foot berm is going to do very little to screen a 70 foot landfill. The landscaping will help to some extent over a period of years as it matures. Maybe the County Commission is going to have to figure out if that is what they had in mind when they passed the guidelines.

EWY To muddy the water further, we are talking about an initial screening berm. Obviously as filling continues from the southwest corner up to the northeast, the slope that is envisioned in Item H will occur. We will have modifications to the slope face on the north side of the fill. We just want to commence activities in the southwest corner not the northwest corner.

KROUT You haven't explained why that is so critical. Can you explain why it is critical for you to start in the southwest corner and not just follow the staff suggestion?

EWY It has a lot to do with the draining and maintaining certain grades within the site itself. It is just more convenient, quite frankly.

MICHAELIS Anyone else to speak either in favor of or opposition to this Item in the audience?

MRS TWEED I will be inheriting the corner of K-96 and Hoover. Since they put in the landfill, it seems to be flooding my land, and I am just wondering if this is built so high, will it come right down to the farmland and flood it more? I don't know who I can ask this, but would like an answer.

MICHAELIS That is typically a question that will be answered more at the actual subdivision plat where the drainage will be planned?

TWEED The landfill goes down and under you know; the big pipes go under the highway and just lets the water rush down and stand in the field.

KROUT There will not be a subdivision plat.

TWEED The water stands in the field.

MILLER Under Item G, they are required to submit a drainage plan to Sedgwick County Public Works for them to review so they should take care of that with that review.

MICHAELIS You might want to make sure to write your name on that list for that particular item so if something does come up they can notify you. Anyone in the audience wishing to speak on this Item. Mr. Ewy do you have any rebuttal?

BILLY MILLER, 3814 NW Street. The house is to be lived in, and I intend to build some more houses. This house at K-96 Highway and West Street, on the east side, here next to Ritchie. We need to put some houses in there and intend to do something like that. That asphalt going off into the pond there and in that lake, that is dangerous along that big river at times. Asphalt in there contaminate the fish and we need to control this thing and take care of things here.

GAROFALO Mr. Miller, could you point out your property and what you are talking about exactly.

B. MILLER It would be right there where the red area is here and right south of K-96, just right off the road there on West Street. The house is right next to the West Street there right there at the road, and the line goes on down clear to the east to the river there. Then we have another little place on west there, Mr. Parkinson's land, and Ritchie then Parkinson, and they bought that corner and then next to that is Miller, and then Guthen, and on west there to Hoover.

KNEBEL Helps Mr. Miller point on the map.

B. MILLER Another little place Parkinson there

GAROFALO Have you developed housing there in that area?

B. MILLER No, I haven't been building, but there is a development over there right there on Hoover. On K-96 and West Street, where the red area is right here, the house is in here.

MARNELL That house that was described, is it occupied? At 37th and West?

B. MILLER Yes, it is. About 1999 when my mom and dad went to the care home.

MARNELL What is current use of that property?

B. MILLER Farmland. They are farming it, but I believe they rezoned it.

ALAN CHAPPEL Environmental Concepts and Design speaking as agent for Ritchie Corporation, The comment made about filling going on is not at the site that we are here to discuss today; that is across the street in a totally separate area. Also, relative to Marvin's comment about the berm and the reason for that it is operationally much more cost effective, but we are looking at as Russ had pointed out developing this berm along K-96 and seeing if we can commence filling operations there.

The difference I think that you will find with our location versus what has taken place at Brooks, over the years, is we are going to build this fill in lifts. So as we build this fill up we will continue to cover the berm from the K-96 side or from the West Street side and then we will vegetate that area so that all that will be viewed from those roadways will be a soft slope created from dirt material, soil material, and then covered with a composite and seeding so that you will see grassy slopes and that will be all that you will be able to view from the highway. So I just don't want it misunderstood that we are going to have a 70 foot lift, we are going to be picking this fill up in probably 10 to 15 foot lifts, at one time, covering the outside slopes with dirt and vegetating those so that you don't see very little of the C & D operations from those highways and roadways. Also we did and they passed out information that a year ago this Commission made the decision to approve the very same facility in operational ways in this location; and as Dale pointed out, and I just may clarify one point, we are not litigating against KDHE. Actually KDHE is asking us to litigate the question

of the Arkansas being a navigable stream. They want that issue resolved. That stems from a challenge from other parties and KDHE was threatened with lawsuit, so we are not actually litigating against KDHE. It is more of a case that we are litigating cooperatively with them to answer that legal question. KDHE did in fact approve our operations and approved the technical review of the facility that is located across the street. They did so because of a lot of the information that is included and handed out previously.

This facility will have a plus 80 percent recycle rate. Last year we came to you and talked about a 65 percent recycle rate and beings that we are actually performing these operations now that has increased to over 80 percent. So 80 percent of everything that comes into this facility will be recycled and actually this will be a model facility for the State of Kansas. Any questions that I might answer?

BARFIELD Where do you come up with that number 80 percent?

CHAPPEL Because of the tonnage that is coming in, everything that comes into our system is scaled and then we have the records of everything that goes out to be recycled, or everything that is crushed asphalt and concrete material.

MICHAELIS I was informed that Susan Erlenwein from the County is here if you have any questions for her.

BARFIELD Dale, have any idea as to when water and sewer will be available?

MILLER I am not sure I can say for sure what time that would be, but there seems to be more and more interest in that area over time. Ten years maybe, I am just guessing.

BARFIELD My concern is, is this the best use for this land? Because what you are stating is true and I think within a short period of time there would be some proposal that I think would make a much better use of this land, and I have to believe that is what you had in mind when you make the statement that the MAPD is somewhat reluctant to recommend approval. Because I think you can visualize some proposals that would make a better use of this land and that is my major concern here. Is this the best use for this land and quite frankly I am not convinced that it is.

BISHOP Clarify the previous site. Do I understand it correctly that is kind of like plan A and this site is plan B. I realize that is probably not totally germane to our discussion, but I am just wondering.

MILLER My understanding is that if they are able to get the permit to operate on the southeast corner where the lake is today they will use that site first. They would then operate that site before they would operate this one.

KROUT Dale, this a request for Limited Industrial and a Conditional Use permit. The Limited Industrial subject to platting?

MILLER No, it is not subject to platting.

KROUT Is there some reason why we did not recommend the Limited Industrial be subject to platting?

MILLER Not any particularly good reason.

KROUT Our recommendation for the Limited Industrial zoning would be subject to platting like we always do with industrial lots, but I guess I would also suggest that for Mr. Barfield that if you separate the zoning and the Conditional Use case I guess we would say that the Industrial zoning is consistent with the Comprehensive Plan and represents good planning and it is the land use that we would expect to see in the future at a location like this, and so if there is a motion the Planning Commission may want to entertain separate motions for the Industrial zoning and for the Conditional Use request if someone feels that this is not the right location for the landfill site.

MOTION: To approve subject to staff comments and citing the findings in their report by amending Item G by taking out reference to the Wichita Park Director; Item I taking out the Wichita Park Director. Strike Item H and insert in there that prior to commencing business they will provide a 10 foot berm along K-96 highway and leave in the 70 foot height requirement.

MCKAY moved, **ANDERSON** seconded the motion

KROUT Is that subject to platting.

MCKAY I thought I heard that was in there for no good reason.

HENTZEN Mr. McKay does that mean that you accept the staff's request to start it in a different corner of the property?

MCKAY I thought that we had agreed that we could start it in that southwest corner.

KROUT I think we can work out the language understanding the idea about the lifts and that there will be an effective screen that way. I think we can work out the language on that. Does your motion include platting?

MCKAY Not unless it is a requirement.

KROUT I think that was just our omission, but now that I am thinking about it. The applicant may have objection to platting and probably ought to hear that for the record if they do.

MCKAY I am not making that part of my motion unless the subdivision regulations state that they have to I am not making that part of my motion.

MICHAELIS Ok, we will have to take that motion first.

WELLS Does your motion just on Item G and Item I, it just strikes Wichita Park Director? Everything else stays?

MCKAY Yes, that is all they wanted to take out and I agree with that.

MCKAY moved, **ANDERSON** seconded the motion, and it carried (10-4) **BISHOP, BLAKE, GAROFALO, BARFIELD** in opposition.

9. **ZON2001-00070** – Estate of Theodore Grant Davis, Jr., Deceased (owner); Stuart L. Ray, Executor; requests a Zone Change from “LC” Limited Commercial to “GC” General Commercial, on property described as:

The North 10 feet of Lot 3 on Lawrence Avenue, now Broadway, in Brook’s Addition to Wichita, Kansas, Sedwick County, Kansas; together with the South 10 feet of the North 82 feet of the Reserve, on Lawrence Avenue, now Broadway, in Brook’s Addition to Wichita, Kansas, Sedgwick County, Kansas. Generally located Northwest corner of Broadway and Harry.

BACKGROUND: This request is associated with ZON2001-64, a zone change request approved by MAPC on November 26, 2001. The Wichita City Council approved ZON2001-64 on December 11th, 2001. The current zone change request is now necessary to accomplish the desired development, according to the site plan submitted for the ZON2001-64 case, and attached to this report. Following the ZON2001-64 MAPC hearing, the agent for the applicant discovered that this small application area was not included in the previous zone change request. The application area is approximately 1,600 square feet located northwest of the Broadway and Harry intersection, it is currently zoned “LC,” and is part of a property developed with a single-family residence. The applicant requests “GC” zoning to relocate a sign business to the application area, and to develop a Walgreens store at the corner. The applicant intends to replat the development site into two parcels. The proposed development would result in a parcel located at the corner of Broadway and Harry developed with a Walgreens, and a separate parcel to the immediate north on Broadway developed with the relocated sign business (see the attached site plan).

The application area abuts “LC” zoned property to the north and west. North of the application area is a pawnshop and associated parking, west of the application area are three single-family residences, a sign business (proposed to be relocated), and a computer business. Property across Broadway, east of the application area, is zoned “LC” and “GC,” and is developed with general strip commercial uses. Property south of the application area, across Harry, is zoned “GC” and developed with commercial uses. Southwest of the application area, across Harry, is property zoned “LC” and developed with parking for an elementary school located further west on Harry.

The proposed zone change, from “LC” to “GC,” and the proposed development would require conformance to all property development standards in the *Unified Zoning Code*.

CASE HISTORY: ZON2001-64 was approved by MAPC in November of 2001, and approved by Wichita City Council on December 11, 2001. The three northern lots of the ZON2001-64 application area were approved for a used car sales Conditional Use in 1998.

ADJACENT ZONING AND LAND USE:

NORTH:	“LC”	pawnshop, parking
SOUTH:	“GC,” “LC”	general commercial, school parking
EAST:	“GC,” “LC”	general commercial
WEST:	“LC”	single-family homes, sign business, computer business

PUBLIC SERVICES: The property is located along South Broadway, a four-lane arterial street. At the Harry intersection, Broadway has an additional southbound right turn lane, and Harry has an additional eastbound right turn lane. The traffic count in March of 2000 along this section of Broadway was 11,997 cars per day (ADTs); the projected traffic volume for 2030 is 10,323 cars per day.

The existing half-width right-of-way for Broadway at the application area is 30 feet. No street projects are included in the C.I.P. for the immediate area. No utility easements exist within the application area.

City water and sewer are available at the application area.

CONFORMANCE TO PLANS/POLICIES: The “Wichita Land Use Guide” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as “Commercial.” The “GC” zoning district falls within the Plan’s definition of “Commercial.”

RECOMMENDATION: This zone change request is in conformance with the *Comprehensive Plan* “Wichita Land Use Guide” and “Commercial Locational Guidelines.” As these properties are redeveloped, the *Unified Zoning Code* property development standards for screening, landscaping, and lighting will mitigate any negative impacts on nearby residential properties. The proposed redevelopment has the potential to improve neighborhood appearance and retail services. The applicants met with the planning staff and agree with planning staff’s recommendations concerning access control, right-of-way dedications, and cross-lot agreements. Because of site and operational constraints for the proposed sign business relocation, staff recommends that the application area make a contingent 20-foot right-of-way dedication.

Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to replatting the development into two parcels within one year. The replat should include provisions for: a contingent dedication of 20 feet of right-of-way on Broadway; dedication of access control with two points of access from Broadway; and a cross-lot access agreement between the two parcels.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All property abutting the application area is zoned "LC." The properties across Broadway and Harry from the application area are zoned "LC" and "GC." Most land uses in this area are commercial or parking, with the exception of three single-family residences to the west of the application area, these residences face South Market Street. The character of the Broadway and Harry intersection is that of an older commercial strip area.
2. The suitability of the subject property for the uses to which it has been restricted: The property could continue to be used as it is currently zoned. However, rezoning the parcel from "LC" to "GC" will allow the sign business to be relocated from the corner, and yet remain in the same neighborhood, and allow the development of a Walgreens store at the corner.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of "GC" zoning on this parcel will permit uses not currently permitted at this location, screening and landscaping requirements will mitigate impacts on the residential properties to the immediate west.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested zoning change is in conformance with the *Comprehensive Plan* "Wichita Land Use Guide," and it is in conformance with all the commercial locational guidelines of the plan.
5. Impact of the proposed development on community facilities: The redevelopment of the application area will generate more traffic than the current used car lot. Therefore, the dedication of additional street right-of-way, limiting access control, and providing for cross-lot circulation will address potential increased demand on community facilities.

JESS MCNEELY, Planning Staff staff presents staff report.

MICHAELIS Mr. McNeely, let me interrupt you here, but I kind of lost track. I am thinking this one that we can take quickly for the essence of time. Is there anyone in the audience wishing to speak on Item 9? Does anyone on the Commission wish to speak on Item 9? Does the applicant wish to speak on Item 9?

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, **COULTER** seconded the motion, and it carried unanimously (12-0-2) **JOHNSON** and **WELLS** abstained.

10. **ZON2001-00069** – Kansas Gas & Electric Company c/o Hazel E. Sutherland (owner/applicant); Ritchie Corporation c/o H.T. Ritchie (contract purchaser); requests Zone Change from "SF-5" Single-Family Residential to "LI" Limited Industrial, on property described as:

A tract of land in the SW ¼ of Sec. 20 and the NW ¼ of Sec. 29, Twp. 26-S, R-1-E of the 6th P. M., Sedgwick County, Kansas, being more particularly described as follows: Beginning at a point on the south line of said Sec. 20, 118.22 feet east of the SW corner of said Sec. 20; thence N39 degrees 51'00"E for a distance of 165.53 feet; thence N20 degrees 52'00"W for a distance of 22.62 feet; thence N68 degrees 59'00"E for a distance of 68.44 feet; thence N83 degrees 37'00"E for a distance of 175.00 feet; thence S71 degrees 28'00"E for a distance of 247.72 feet to a point of curvature; thence along a 12 degrees 51.02' curve to the right described by the following chord bearings and distances: S68 degrees 12'00"E for a distance of 50.98 feet; thence S58 degrees 30'00"E for a distance of 99.79 feet; thence S45 degrees 39'00"E for a distance of 59.22 feet to the south line of said Sec. 20 to a point described as being 772.88 feet west of the SW corner of said Sec. 20, said point is calculated at a distance of 863.72 feet; thence continuing along a 12 degrees 51.02' curve to the right described by the following chord bearings and distances: S45 degrees 39'00"E for a distance of 40.57 feet; thence S32 degrees 48'00"E for a distance of 99.79 feet; thence S19 degrees 57'00"E for a distance of 99.79 feet; thence S03 degrees 35'00"E for a distance of 153.91 feet to a point of tangency; thence S06 degrees 21'00"W for a distance of 69.66 feet; thence S02 degrees 00'00"E for a distance of 130.11 feet per recorded tract numbers 73(A), 73(B), and 76 of the Chisholm Creek Diversion, Condemnation Case A-39338; thence S02 degrees 00'00"E for a distance of 19.60 feet to the intersection of a 15 foot offset of the centerline of the railroad tracks; thence on a curve to the left a length of 37.02 feet having a radius of 545.47 feet with a chord bearing of S66 degrees 52'05"W for a distance of 37.01 feet to a point of tangency; thence S63 degrees 40'18"W for a distance of 213.89 feet being parallel with said railroad tracks and 15 foot offset of centerline thereto; thence on a curve to the right a length of 50.17 feet having a radius of 458.05 feet with a chord bearing of S68 degrees 43'27"W for a distance of 60.13 feet being parallel with said railroad tracks and a 15 foot offset of centerline thereto; thence N04 degrees 7'21"W for a distance of 282.82 feet; thence on a curve to the left a length of 48.46 feet having a radius of 28.15 feet; with a chord bearing of N53 degrees 56'06"W for a distance of 42.69 feet; thence S76 degrees 45'09"W for a distance of 224.83 feet; thence S88 degrees 09'16"W for a distance of 398.01 feet; thence parallel with west line of said NW ¼ of Sec. 29, N00 degrees 19'00"W for a distance of 393.95 feet; thence N39 degrees 51'00"E for a distance of 94.32 feet; thence N89 degrees 57'00"E for a distance of 27.76 feet to the point of beginning. Said tract contains 566,680.00 + Sq. Ft. Generally located North of I-235 and east of Seneca.

BACKGROUND: The applicant requests a zone change from "SF-5" Single Family Residential to "LI" Limited Industrial on a 13 acre unplatted tract located north of I-235 and east of Seneca. The subject property is the portion of the Ripley Power Plant site that is located north of the power plant and contains two 10,000-ton storage tanks. The Ripley Power Plant site was established around 1940 prior to the property being zoned for residential uses in 1958. Asphalt oil storage could qualify as a legal, non-conforming use of the property since it is no more intensive than use of the site for electrical power generation. Ritchie Corporation has contracted to purchase the subject property from KGE and desires proper zoning of the site rather than non-conforming use status. Asphalt oil storage is first permitted by right in "LI" Limited Industrial zoning.

The surrounding area is characterized primarily by the industrial uses. The Ripley Power Plant site is located south and west of the subject property and is zoned "SF-5" Single-Family Residential and used primarily as an electrical training center. South of the Ripley Power Plant site are residences on the site of a former sand pit and a truck driving school on properties zoned "SF-5" Single-Family Residential. North of the site across the Arkansas River are numerous properties zoned "SF-5" Single-Family Residential that are developed with single-family residences. East of the site across the Arkansas River is a KGE storage yard and agricultural land on properties zoned "SF-5" Single-Family Residential.

KGE has been leasing the storage tanks to Ritchie Corporation for the storage of asphalt oil since 1989. The applicant indicates that the site is used as a surplus storage site and that no processing of the material or manufacturing of asphalt occurs on site. The applicant indicates that the asphalt oil is trucked to an asphalt plant near 37th Street North and West, a process that entails as many as eight trips per day. The applicant indicates that when new asphalt oil is purchased and stored in the tanks that about 20 trips per day occur for two or three days. The applicant indicates that new asphalt oil is purchased infrequently (including one year where no oil was purchased) when the refinery over-produces it and/or when the price is low.

The only access to the site is via Seneca, which crosses I-235 and intersects with 37th Street North to the south. At 37th Street North, vehicles must either go west to Womer or east to Arkansas. Through truck traffic on the portion of 37th Street North between Arkansas and Womer has been prohibited by the City; however, trucks can use 37th Street North to access the subject property since it is served only by this portion of 37th Street North. As indicated in attached correspondence, residents of the Sherwood Glen Neighborhood, which is located along 37th Street North between Seneca and Womer, have expressed concern regarding truck traffic along this portion of 37th Street North. Upon reviewing the situation, the City's Traffic Engineer has indicated that through truck traffic can be further prohibited between Seneca and Womer, which would require all trucks accessing the subject property to enter from Arkansas or Broadway to the east, rather than traveling through the Sherwood Glen Neighborhood. Although it cannot be a condition of approval of the zone change, planning staff recommends that the City prohibit through truck traffic between Seneca and Womer.

CASE HISTORY: The subject property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-5" Single Family
SOUTH: "SF-5" Ripley Power Plant; residences, truck driving school
EAST: "SF-5" KGE storage yard; agriculture
WEST: "SF-5" Ripley Power Plant

PUBLIC SERVICES: The site has access to Seneca, a two-lane paved local street in this location. Seneca intersects with 37th Street North to the south. At this location, 37th Street north is a two-lane arterial street with current traffic volumes of approximately 3,600 vehicles per day. The 2030 Transportation Plan estimates traffic volumes on 37th Street North will increase to approximately 8,600 vehicles per day. The increased traffic projected by the Transportation Plan is due primarily to an assumption that the Ripley Power Plant site would redevelop with more traditional industrial uses. Public water and sewer service are not currently available to serve the site but could be extended to serve the site in the future. The nearest sewer main is located approximately ½ mile to the south near Seneca and I-235. The nearest water main is located approximately ¾ mile to the southwest near Amidon and I-235. On-site water and sewer service are sufficient to support use of the site for asphalt oil storage.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "Industrial" development. The Industrial Locational Guidelines of the Comprehensive Plan indicate that industrial areas should be located in close proximity to support services and transportation routes and away from residential areas and should be sited so as not to generate industrial traffic through less intensive land use areas.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request for "LI" Limited Industrial be APPROVED, subject to platting within one-year.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized primarily by the industrial uses. The zoning of the surrounding area is "SF-5" Single-Family Residential; however, the industrial uses in the area are legal, non-conforming uses that were established prior to establishing residential zoning in the area in 1958.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned "SF-5" Single Family Residential and is currently developed with two 10,000-ton storage tanks. Use of the subject property for asphalt oil storage could continue as a legal, non-conforming use; however, the prospective buyer desires proper zoning of the site rather than non-conforming use status. Asphalt oil storage is first permitted by right in "LI" Limited Industrial zoning.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The subject property is separated from nearby residential uses by major barriers in all directions. The Arkansas River is located north, east, and west of the

subject property, and I-235 is located south of the subject property. These major barriers should mitigate detrimental affects of industrial use of the subject property on nearby residential uses.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "Industrial" development. The Industrial Locational Guidelines of the Comprehensive Plan indicate that industrial areas should be located in close proximity to support services and transportation routes and away from residential areas and should be sited so as not to generate industrial traffic through less intensive land use areas. Support services such as public water and sewer service can be extended to the site. The site has access to major transportation routes, and industrial traffic can be prohibited from traveling through less intensive land use areas by the City taking action to prohibit through truck traffic along 37th Street North between Seneca and Womer.
5. Impact of the proposed development on community facilities: No detrimental impacts on community facilities are anticipated.

SCOTT KNEBEL, Planning Staff, presents the staff report and shows the site plan. I think the issue is access on this particular case. The only access to this site is from 37th, you go north on Seneca across I-235 into the subject property, and that is the only way that you can access this property. At one time, there was a rail bridge that came from the east across the river, and you can see it denoted in this location here. That rail line has been abandoned, removed, and is no longer there. So the only access to this site is via roadway from the south. You have a letter from the Sherwood Glen Neighborhood Association indicating that they are concerned about truck traffic along 37th Street, and you should have a map of their neighborhood association as well that was attached separately. Basically their neighborhood runs from Seneca to the west to Womer on both sides of 37th Street, and they are concerned with the trucks that would travel along that roadway. That roadway has been determined by the City Council to prohibit through truck traffic; however, through truck traffic means trucks that are going from point A to point B outside the area where the through truck traffic is prohibited which is between Arkansas and Womer. You can not travel that roadway if your destination is within those two points, then you can obviously go in there. Otherwise there would be no way to access these properties on which you have industrial type use here with the power plant. There is some industrial zoning here in this location. I am not exactly sure what the exact nature of the use. You have a truck driving school which is run by the Vo-Tech which obviously has semi-trucks they go to on a daily basis or five days a week.

Based on the concerns of the neighborhood and talking with Traffic Engineering, Planning staff has come up with what we think is the best solution to addressing these concerns which would be to further prohibit the through truck traffic from Arkansas to Womer. This would force any trucks that were accessing this property to exit to the east rather than to the west, and would prohibit trucks that had this destination from traveling from Womer to Seneca from the west. That is not anything that can be made as a condition of approval of this zone change because it is not related to the subject property, but that is the recommendation that Planning staff has to address the concerns, and it would have to be brought up separately by the Traffic Engineer, and would have to be done through the City Council.

BARFIELD On your restrictions of trucks, is that all trucks?

KNEBEL No, it is not all trucks. It is all trucks over a certain weight, it is basically commercial trucks, it is not passenger vehicles.

GAROFALO That property is a nonconforming use now?

KNEBEL It is actually not a registered nonconforming use. The property owners under the zoning code have an obligation to register their use as a nonconforming, and it has not been done in this case, but we feel like if that application were to be made, that could be approved as a nonconforming use and continue under the single-family residential zoning. However, being a nonconforming use has lesser development rights. You can only have limited expansion rights, you have problems if the property is damaged greater than 50%, then it can't be replaced. In instances like that are less to the advantage of the purchaser, and so they requested the zoning.

GAROFALO Do you know is that area monitored in any way for leakage?

KNEBEL We did ask the County Health Department and they did indicate that the State Health Department is monitoring this and that there is no reports of any leakage of these tanks. I believe the applicant can provide more information on that as well.

BISHOP Could you give me a better neighborhood placement?

KNEBEL Shows on map and site plan.

HENTZEN Scott, if you were going to run that pointer down Seneca, run it down Seneca as far as it goes?

KNEBEL That would be the impact prohibiting traffic from Seneca and Womer. They would have to go to Broadway.

HENTZEN Would we be making that rule for the stuff that is already up there now?

KNEBEL Yes, it would impact all traffic in addition to the concerned neighborhood.

RUSS EWY, agent for the applicant. We are in agreement with staff findings and conditions.

BISHOP Any requirements relative to the use that they are proposing in terms of environmental concerns. Is there a permit that has to be applied for? KDHE is not involved.

EWY I would only be assuming that KDHE monitoring of this site has more to do with its proximity to Brooks than perhaps because this was a KG & E power plants. The client is purchasing the property from KG & E. They did do a Phase 2 study to establish benchmark readings on the site. So there have been environmental studies done and will continue to be.

WARREN Do you see this site as a storage site?

EWY Very limited usage to do anything else with it. Bring the site up to code for our use.

WARREN My concern is industrial zoning gives a wide range of potential uses. Would you be okay with a protective overlay?

EWY We would be willing to do a protective overlay to limit this use. I quite frankly did not think it would be required.

WARREN Insure the protective overlay.

BRAD BACHMAN, Bachman Properties, 4829 Portwest, Wichita, KS 67204. I am co-owner of Bachman Enterprises and Harbor properties. We own much of the undeveloped property to the west of the Ripley plant, our land starts here, goes up and follows the river all the way around up to the flood control ditch that was just put in, probably up in there, and our land also runs over and down to the Word of Life church property, clear over to Meridian, is land that we own.

We were not part of the 500 foot radius that evidently was required to be notified. Looks like much of it was the river and the existing KG & E plant. We have 200 lots platted in this area and we have 200 more planned. They will run right up to the Ripley site. I also represent the Harbor Homeowners Association, there are 65 homeowners in that group right now. This came on me a little cold because I only heard about it Tuesday, but my understanding is that the D.A.B. group has not heard this because they had a conflicting meeting in December. I think a lot of my concern is that there might be a potential use to the property other than the existing tank storage. That was there when we bought the land around it. The problem is the potential use in the future other than tank storage. This is surrounded by houses, we would be impacted by any other use right now. The access to the site is uniquely poor probably for an industrial site because you have to drive through several residential neighborhoods. The noise of any other use and the related equipment that goes with asphalt equipment plants would diminish the value of properties and the enjoyment of the area. I have grave concern about this zoning change. I want this zoning denied at this time.

KROUT The legal non-conforming use and the property could change hands subject to the limitation that Scott pointed out about if there was damage and those sorts of things.

WARREN If the zoning were approved, but limited to its existing use, that would go with the land that protective overlay? If it were put on there, which they have offered to do as I understand it, would go, even if that land sold, it would go with the land. You wouldn't object to that would you, as long as it is continued in its current use.

BACHMAN In its current use, it is not objectionable to us. The people down the street immediately adjacent to it might have a different opinion.

WARREN I think I heard here that they are willing to place that protective overlay over that industrial use which would limit to that only.

BACHMAN I am not familiar with the restrictions of that type of overlay and how easily it is changed.

WARREN It is pretty restrictive.

BACHMAN That would address my concerns.

JACK DEATHERAGE, 4234 N. Seneca, which is directly south of the Ripley plant. We feel the rezoning would open too many doors to rezone this. The increase in traffic of large trucks would be bad. We have an environmental magnet school. The lake, the wildlife will be directly impacted by the rezoning of this. I knew this was SF-5 when I bought this. There are three of us directly south of this, and I would like you to delay this and really show you the overall impact this will have. There was very limited notification because of the 500 foot notification area. People north, people east are opposed to it. I would like you to postpone this until you have enough information to realize just how much of an impact this can have on all of these residences that surround this entire area.

MCKAY This was in operation when you moved into your place and you have been there a year and a half?

DEATHERAGE Yes, I have been there about a year and a half. We have no city water into this area. We have water wells for our water supplies. If there was any contamination from future development of anything up there, to increase their capacity of their business. It is surrounded by the Little Arkansas on all sides, but basically you got residences on all sides of this.

SONJA R. KARLOWSKI, 4948 N. Seneca, North side of the river. Secretary from the Airhart Environmental Magnet School. Delay this decision based on concern for our river there and future contamination to the surrounding residential area that has already had some concentrated contamination there between Seneca and Arkansas and therefore the City has installed monitoring wells. The Environmental Protection Agency has implemented a program that continues to test to see where the contamination is coming from and where and who it is affecting. There are residences that have had to go onto city water already. I would ask you to delay your decision and go out and see where the school is and how this would affect our children and our wildlife. I live on the north side of the river. I am opposed to this case.

WARREN It would be only fair to have Marvin talk about industrial zoning accompanied by a Protective Overlay means.

MICHAELIS Let's go ahead and hear the rest of the speakers and then we can do that.

BILL BACHMAN, 2820 BENTBAY CIRCLE, Wichita, KS, BACHMAN ENTERPRISES Leave this as a nonconforming use. These tanks could be rebuilt or built larger than they are now. I assume these tanks can be repaired if you leave it non-conforming, but I assume they can not be rebuilt. Denying the rezoning, leave it as nonconforming, and allow them the continued use of it as long as the present tanks last.

GREG PILAND, 4320 N. Seneca, I have had the property 18 years. I lived out there for maybe 15 years and built this house about two years ago. It is valued well in excess of ½ million dollars. These truck drivers that we have been talking about, they can't get in the gate. They park in my drive and sometimes we can't get out of the drive.

We have three kids. It is an extremely narrow road. It has been a nuisance. The backside of our property is adjacent to the river. I don't know what the effects of it are, but the trucks are a big problem. The trucks going up and down the road is bad. I encourage you to go up there some afternoon; the trucks can not hardly go up and down the road. I don't agree with the 500 foot notification buffer, nobody had to be notified except KG & E. We bought this land because it is inaccessible; don't penalize us.

GAROFALO Where is all of this truck traffic coming from?

PILAND The truck traffic is coming in the K G & E Ripley plant or from the storage facility. Where I live, I live north of the truck driving school, so the only time those guys bother me is when I am going in and out of the house, and the only reason they bother me is because the drive too slow. When that gate is not open, there is a line of trucks waiting for them. The traffic is sometimes seven, eight, or nine of them in the line.

GAROFALO The applicant indicates that when new oil is stored in the tanks about 20 trips a day for about 2 or 3 days.

BURT WILLIS, 3834 N Woodrow, Sherwood Glenn Neighborhood Association. It is a very, very, narrow bridge. The oil is hot that they are carrying. I counted 8 to 10 trucks between the hours 7 a.m. and 10 a.m. and it has been going on since late summer. When oil went down, hauling went up, and it hasn't stopped yet. So maybe when prices go back up, it will stop again. My major concern if we force them off of Womer, which I appreciate from Womer to Seneca, and make these poor people put up with the trucks their way coming down from the east. I would like for you to get in your car and come down 37th Street from Arkansas Ave to Broadway and then go up and over that bridge and try to make a right hand turn up to Seneca, it is tough. There is no walkway at all on the bridge.

EWY Over the last three years, using Ritchie Corp. accounts, the number of loads that are hauled in and out of this site, it appears, that it is sporadic. Hauling in to fill those 10,000 ton tanks occurs when the refineries have over-produced, liquid asphalt also when the price drops. Hauling out is smaller loads more frequently. We are averaging about less than one trip per day up to this year one trip and ½ out a day and a third trip in. They are absolutely right. Since May this year there has been quite a bit of activity, probably up to 3 to 4 trips per day out and in per day. I ate lunch there the other day. The truck traffic is very light as it relates to our use of the Ripley power plant site. Again this is a re-use of a site that has been there since 1937. Ritchie Corp. has leased this site for the last 13 years to conduct this exact same operation that we are looking to legitimize through the zoning process, again what was there yesterday, was there today, will continue to be there tomorrow in the same manner in which it has occurred for the last thirteen years. How is this going to impact the area? It is not going to change any effect. The site is not inactive, KG & E has training facilities. They man that facility to this day and obviously they don't have power production so they don't have emissions and the generators aren't going and all the trappings of generating power, but KG & E does use that site. As far as trucks not being able to access and parking outside of the application area, I have been told that will change once the ownership is transferred from KG & E to Ritchie Corp. They will be able to control that gate.

MCKAY You referred to a Phase Two environmental study?

EWY Process where a GEO technical firm would be hired to do soil testing. We did not establish monitoring wells, but we did establish a base line from which Ritchie Corp. would be responsible for any change in that base line.

MCKAY Why was the results of that Phase Two study?

EWY Minor hit of hydro-carbon, I believe in the northwest corner that wouldn't be attributed to this site.

BARFIELD What are the hours of operation at the Ripley plant?

EWY KG & E standpoint or from our operation?

BARFIELD Your operation.

TOM RITCHIE, President of the Ritchie Corp, The one area that we don't have much control over is the outside truckers that haul the material in. They kind of show up when they show up and that is a problem for us. As far as hauling the material out, it is typically during normal working hours and we are a seasonal business. Very, very, little occurs during the winter as far as brining the material in. There is hardly any ever available to bring in during the summer when people are running their air conditioners. If you look at our usage, as far as we had three months during 1999, in which we brought material in three out of twelve. Jan, Feb, and December of 1999. The year 2000 had six months in which we did not bring any material in at all. In the year 2001, we brought material in one month (January 2001) we haven't had any material in since then.

BARFIELD What is the justification for truckers lining up there all hours of the night waiting for your plant to open?

RITCHIE We use independent truckers, and they fill up and show up when they do. Right now we don't have control over the gate because it is KG & E's gate and they got the guard and the trucks show up and we can't open it because it is their gate; they line up there. Once the property changes hands we will have control over the gate and we can let them in.

WARREN As a contract purchaser, I am sure you worked out something with KG & E for some sort of egress, ingress easement in there. Would you be able to use that area for stacking those trucks as they came in so that you could now help negate that problem from stacking the trucks out in the street?

RITCHIE That is correct we would stack in the egress ingress easement inside there versus outside the gate.

JOHNSON Couldn't the city post no truck parking signs to make sure those trucks did make a better deal if this things goes through?

KROUT On a public street, yes there could be no truck parking signs implemented.

EWY Mr. Bachman brought up a great point, and that is sure you can get this zoned and then you wouldn't have to worry about being impeded on building larger and bigger tanks. We would also be more than agreeable to add to the condition that there would be no expansion of existing operation as it relates to the size and capacity of this site to conduct the storage use. Again we are wanting in the future to have the same use of this site as it has been used for in the last six decades.

GAROFALO If this were to remain as a nonconforming use, can they do any changes to it or add on?

KROUT It would be classified as an outdoor non-conforming use and so you can't expand a nonconforming outdoor use without going to the Board of Zoning Appeals; you can't do it automatically. I think OCI would interpret that the tanks could be replaced as part of a nonconforming use, and I say that because I know that in a mobile home park they have interpreted that you can replace each mobile home in a nonconforming mobile home park, but expansion would not be permitted without BZA approval.

EWY We have worked with OCI and it was their stated desire to see us go through this process in order to bring the site up to code.

WARREN First it is a legal non-conforming use and the only thing it would be restrictive to is that he couldn't go to further nonconformance. He could go ahead and operate; he just couldn't add to the nonconformance as I understand.

KROUT That is right, he is not able to add to the nonconformity. You are permitted to change from one nonconforming use to another but that use has to be less intensive, so he might be able to do something similar related to these, but probably not something that would require more structures, or more truck traffic, or that sort of thing. But if you were to zone this property without the restriction that was just offered about the expansion size, then you would be able to expand the scale of the operation without review, so that is something that if you are considering an approval you ought to consider. I would just like to ask Russ, I don't think anyone asked you directly whether or not the suggestion about changing the thru-traffic truck traffic signs that would restrict the traffic to the east, I understand that it is not a part of the zoning request, but would it effect your operations if the Council chose to do that and does your client have a feeling for that. I am sure it is going to come up at the D.A.B. meeting.

EWY That is correct. This material goes to the asphalt plant located at 37th and West Street. The most direct route to that facility is to take material out of the tanks and to the west through the Sherwood Glenn Neighborhood and up Meridian and on I-235 to K-96. All of the material that comes into the site is transferred to the site from the east. To answer that question obviously will be something that is outside of our control. The truck traffic issue is one that could have been addressed five years ago. It could have been addressed with or without this zone change and it is something that we are going to have to comply with whatever the City Engineer determines is the most appropriate for this. It is something again that will be brought up at the D.A.B. and probably the City Council our desire would be to continue to have the ability to take our four or five trips or two or three trips a day out to the west. If that is not the case, and they are successful in changing the signage we are going to obviously have to conform to the traffic signs.

WARREN moved **JOHNSON** seconded to approve the application as staff has recommended and that approval will be subject to staff conditions and recommendations and that it be subject to a Protective Overlay limiting its use to its present use and restricting it to no more intense use than that and that a method be provided for stacking incoming and outgoing trucks without having them parking or stacking on the city street and have them park or stack the trucks within their own property.

BISHOP I would like to make a substitute motion and I was planning on putting this in a form of a question but since we are already at the motion level. Given the fact that the D.A.B. has not had the opportunity to have a neighborhood hearing on this issue, and we have heard several times that the notice has not been widely available that this change was occurring.

BISHOP moved **BLAKE** seconded, to defer until after the D.A.B. meet. I believe the date was January 7, 2002.

EWY The D.A.B. did have an opportunity to hear this case and unfortunately due to the holidays they were not able to hear this case with full representation until this Wednesday. The D.A.B. has been provided information pertaining this request in the early part of December; they are aware of our intentions and the neighborhood concerns.

SUBSTITUTION MOTION FAILED (2-12) BISHOP, BLAKE in favor.

Original Motion passed (12-2) opposed **BLAKE** and **BISHOP**.

11. **CON2001-00064** – Albert A. Jansen, Sr. Living Trust c/o Albert A. Jansen, Jr. Co-Trustee (owner); Sprint PCS c/o Michael S. Romesburg (applicant) requests Conditional Use to permit a 250-foot high self support lattice communication tower, on property described as:

LEGAL DESCRIPTION LEASE SITE ONLY

Part of the Southwest Quarter of Section 3, Township 27 South, Range 4 West of the Sixth Principal Meridian, Sedgwick County, Kansas.

Referring to the West Quarter Corner of said Section 3, at a found 5/8" Rebar; thence southerly S 01 degrees 36'53" E on the West Line of the Southwest Quarter of said Section 3, 637.18 feet; thence easterly N 88 degrees 23'07" E, 249.96 feet, to the point of beginning for the described Lease Site; thence easterly N 88 degrees 23'07" E, 100.00 feet; thence southerly S 01 degrees 36'53" E, 100.00 feet; thence westerly S 88 degrees 23'07" W, 100.00 feet; thence northerly N 01 degrees 36'53"W, 100.00 feet to the point of beginning for the described Lease Site. Generally located North of 21st Street North and east of 359th Street West.

BACKGROUND: The applicant is seeking a Conditional Use to permit the construction of a 250-foot high self-support lattice tower (see attached "Elevations") by Sprint PCS to expand the coverage area of its wireless phone system. The proposed site is an unplatted tract zoned "RR" Rural Residential and located north of 21st Street North and east of 359th Street West. Wireless Communication Facilities over 65 feet in height in the "RR" Rural Residential zoning district may be permitted with a Conditional Use.

The character of the surrounding area is agricultural. The properties surrounding the site in all directions are zoned "RR" Rural Residential and are used for agricultural purposes. The nearest residence is located approximately 500 feet north of the site along 359th Street West. The residence is oriented such that it does not face the proposed tower and has a solid hedge of evergreen trees that should limit the view of the proposed tower.

The proposed tower would be sited 250 feet east of 359th Street West on a 10,000 square foot area on a 106 acre agricultural tract. Access to the site is proposed to be via a 12-foot wide access easement to 359th Street West. The applicant's site plan (see attached "Enlarged Site Plan") depicts a 100-foot by 100-foot lease area with a 98-foot by 98-foot fenced compound. The tower is proposed to be located in the center of the compound, and the ground-level equipment is proposed to be located north of the tower. The compound is proposed to be enclosed by six-foot high chain link fencing with barbed wire on top. Screening of the equipment compound is not required by the Unified Zoning Code since the equipment compound is located more than 150 feet from the property lines.

The application indicates that the proposed wireless communication facility is needed for Sprint PCS to expand the coverage area of its wireless phone system along the U.S. 54 highway corridor west of Wichita, to Lake Cheney, to the City of Cheney, and the surrounding areas (see "Sprint PCS Justification Report" and "Before" and "After" propagation plots). Sprint PCS indicates that it needs to mount its antennas at a height of 250 feet because shorter heights were researched and they do not provide the necessary interface with surrounding tower sites, which would result in an inability to access the wireless phone system and dropped calls in the area.

The application indicates that an existing 180-foot high tower located approximately one mile northeast of the site cannot be utilized by Sprint PCS (see attached "Sprint PCS Co-location Report"). The applicant indicates that the tower is owned by the Kansas Department of Transportation (KDOT), and KDOT has indicated that its policy is not to sublease its wireless communication facilities to private companies.

CASE HISTORY: The site is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	"RR"	Agriculture
SOUTH:	"RR"	Agriculture
EAST:	"RR"	Agriculture
WEST:	"RR"	Agriculture

PUBLIC SERVICES: No municipally supplied public services are required. The site will have access to 359th Street West, an unpaved section line road.

CONFORMANCE TO PLANS/POLICIES: The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. The Location Guidelines of the Wireless Communication Master Plan indicate that new facilities should be located: 1) on multi-story buildings or other structures; 2) on existing poles in street rights-of-way, parking lots, or athletic fields; 3) on existing towers for personal wireless services, AM/FM radio, television, school district microwave antennas, and private dispatch systems; 4) in wooded areas; 5) on identified city and county properties; or 6) on highway light standards, sign structures, and electrical support structures. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area; 2) minimize the height, mass, or proportion; 3) minimize the silhouette; 4) use colors, textures, and materials that blend in with the existing environment; 5) be concealed or disguised as a flagpole, clock tower, or church steeple; 6) be placed in areas where trees and/or buildings obscure some or all of the facility; 7) be placed on walls or roofs of buildings; 8) be screened through landscaping, walls, and/or fencing; and 9) not use strobe lighting. The Unified Zoning Code requires wireless communication facilities to comply with a compatibility height standard of one foot of setback for each foot of structure height from adjoining properties zoned "TF-3" or more restrictive. This compatibility height standard can be reduced or waived through a Conditional Use or a Zoning Adjustment.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

A. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.

- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
- C. The support structure shall be a self-support lattice design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare, unless the FAA requires the structure to be painted red and white to avoid strobe lighting.
- D. The support structure shall be 250 feet in height and shall be designed and constructed to accommodate communication equipment for at least four wireless service providers.
- E. The support structure and its foundation shall be designed and constructed in such a manner that permits future height extensions to 300 feet and future loading expansions to accommodate communication equipment for at least five wireless service providers.
- F. The applicant shall obtain FAA approval regarding "objects affecting navigable airspace" and "impacts to terminal instrument procedures" for the proposed wireless communication facility and shall comply with all conditions of FAA approval. The applicant shall submit a copy of FAA approval to the MAPD, Office of Central Inspection, and Director of Airports prior to the issuance of a building permit.
- G. Revised site plans and elevation drawings indicating the approved location and design of the wireless communication facility shall be submitted for approval by the Planning Director within 60 days of approval of the Conditional Use by the MAPC or governing body, as applicable.
- H. The site shall be developed in general conformance with the approved site plans and elevation drawings. All improvements shall be completed before the facility becomes operational.
- I. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- J. Any violation of the conditions of approval shall render the Conditional Use null and void.

This recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood: The character of the surrounding area is agricultural. The properties surrounding the site in all directions are zoned "RR" Rural Residential and are used for agricultural purposes. The proposed wireless communication facility is consistent with the agriculture character and uses of the area.
- 2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "RR" Rural Residential and is used for agriculture. Wireless communication facilities in excess of 65 feet in height in the "RR" Rural Residential zoning district may be permitted as a Conditional Use, which should be subject to conditions of approval that maintain conformance with the Location/Design Guidelines of the Wireless Communication Master Plan.
- 3. Extent to which removal of the restrictions will detrimentally affect nearby property: The closest property developed with a residential use is single-family residence located approximately 500 feet to the north. The only impact to be noted at the time this report was prepared is the visual impact of a tower. The visual impact of the tower should be limited because the residence is oriented such that it does not face the proposed tower and has a solid hedge of evergreen trees that should limit the view of the proposed tower.
- 4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposed wireless communication facility conforms to the Location Guidelines of the Wireless Communication Master Plan since there are no other towers or tall structures in the vicinity of the site which are available to accommodate the communication needs of the applicant. The proposed wireless communication facility conforms to the Design Guidelines of the Wireless Communication Master Plan since the height of the facility is minimized, the facility is consistent with the agricultural character of the area, and the facility will be an unobtrusive color with a matte finish to minimize glare unless strobe lighting would otherwise be required by the FAA. The proposed wireless communication facility complies with the compatibility height standard of the Uniform Zoning Code since it is located more than 250 feet from the nearest lot line of property zoned "TF-3" or more restrictive.
- 5. Impact of the proposed development on community facilities: FAA approval should ensure that the proposed monopole does not detrimentally impact the operation of airports in the vicinity.

SCOTT KNEBEL, Planning Staff, presented staff report and slides.

BARFIELD Has the applicant agreed to the conditions and the current locators?

KNEBEL They are required to by the Zoning Code.

BARFIELD Is the applicant in agreement to the 250 feet in height?

KNEBEL Yes, they are in agreement.

CURTIS HOLLAND, Attorney representing the property owners the Jansen, SPRINT PCS. The staff did a good job. We think this will provide another eight or nine miles of coverage west of Wichita. We are happy to bring this facility online. We are in agreement with all the stipulations and the additional stipulation that we provide extra strength in the foundation in the tower to make it extendable to 300 feet to encourage and facilitate co-location for the county in the future.

MOTION: To approve, subject to staff comments and citing the findings in their report.

BARFIELD moved, **HENTZEN** seconded the motion, and it carried unanimously (14-0).

ANDERSON I have a question about the Comprehensive Plan as well as the fee schedule increases wherein that we recommended certain things to the City Council, and I would like to have a report back on the action of the City Council. I don't know how that has been done in the past, but I would like to know what the attitude is of the Council on our recommendations. If we don't get any kind of feedback on some of this, and if they don't agree with us, then we don't know how to react to some of this. It would be helpful to be to have some kind of information on that because I do know the City Council did not go along with our proposed fee schedule as well as the amendments to the Comprehensive Plan, so it would be helpful to have that information either in some kind of a written fashion or some verbatim transcripts of the minutes of the City Council meeting as it relates to those items or an Agenda item or something so Marvin can explain what happened.

BISHOP And the County Commission too.

ANDERSON I just wanted to bring that up here today because I feel strongly that we spend a lot of time in dealing with these matters and made recommendations to City Council and for some reason; or other they weren't approved, and without any feedback on it we don't know why or what was the reason why they decided to do something different other than what we recommended. You know I sit here for two or three hours and try and listen to a lot of this information and if that information is not available to City Council, what basis do they have to make a decision on it other than or recommendation? I do know that the staff makes a recommendation to and if that recommendation overrides ours, then I don't even know why we are even here? Why take the time to spend it here. If the City Council doesn't feel like they can react positively to our recommendation, then we are wasting our time.

GAROFALO On that one, they must have agreed with the opposition instead of those in favor.

ANDERSON Yes, but they were in the minority. I think it deserves some discussion and maybe Marvin can give us some feedback from City Council.

BARFIELD You hear their recommendation in their votes. Basically we are making a recommendation, they can take it or leave it.

ANDERSON That is what we are here for to make some kind of informed decision on these matters for them and that is the purpose of this body. If the staff recommendations are heard, then they have to make a decision and if it is contrary to our recommendations, then they have to make a decision somehow on which they are going to go along with and I think that needs to be clarified in some fashion.

BARFIELD You have to recognize the City Council works by districts. Our recommendation might be favorable to six out of the seven people that sit on the City Council, but if the person whose district this decision is affecting is against it then more than likely the City Council is going to vote against it.

ANDERSON I am not saying that is correct either. All I want is some feedback from the Council members and why they don't follow our recommendation.

BARFIELD We look at the D.A.B. recommendations, but we don't often walk in step with those D.A.B. decisions.

GAROFALO More than often we do.

MICHAELIS I think there is probably enough stuff to have a workshop or retreat; that may be the thing to do.

WARREN You give me a date.

KROUT I thought we might have it at the Home Builders Conference Room. I was planning to bring up the decisions. On the fees, the City Council did not support the recommendation of the Planning Commission; they did approve the ordinance with increase. The County Commission voted no to the fee increase and to defer for an indefinite period, because they felt the fee increase would discourage development. So now we have computer problems and all kinds of other things that will probably cost more than the fee increase, because we will be charging 2 different fees depending on whether or not the case is inside the city or in the county, because each governing body controls those application that come into their jurisdiction.

The Comprehensive Plan WCC & BCOC approved, with the exception of the guideline on car lots. As I indicated to you from the very beginning, I thought there was a disconnect between the City Council and the Planning Commission on this, and I explained to them, both the City Council and the County Commission, that you wanted to continue to have a case by case approach to that rather than a clear policy, and both the City Council and the County Commission felt that a clear policy was needed.

ANDERSON I don't think they had the full benefit of some of the discussion that occurred here.

MICHAELIS It seems like we approved it 11-2 and the City Council disapproved it 7-0 and the County Commission approved 4-1 on our recommendation.

MCKAY The problem with the City Council is they try to get everything to be a unanimous vote so if is going to pass anyway or it is going to fail, we will do the buddy, buddy in the whole district. So if you got a problem in your district and you are going to vote against it, then we will go against it but that isn't how it should be ran anyway, but that is there business anyway.

KROUT I disagree with you. The majority of Council members have had car lot problems in their districts, and they felt that the Planning Commission policy has been out of synch with where they think that use ought to go, and not just one Council member.

MICHAELIS They don't want them anyway, but it is a land use issue.

WARREN We are never going to be able to tell the County Commission or the City Council how they ought to vote, but there is a discrepancy in the way that sometimes our message gets projected, and if I were Marvin Krout, I would do what Marvin Krout does, I

would project in a manner that was both favorable to my way of thinking, but there isn't anybody else there to project the other side. I have often thought that there ought to be a positive and a negative or a right and a left.

KROUT Then the City Council may as well open it up and have their own hearings.

WARREN I am just saying that we have a majority and minority view and you express both.

KROUT I think if you had heard the County Commission you heard me express the views of the Planning Commission, and I think I tried every argument that I could think of, including some that you didn't use.

WARREN I am not criticizing you for it. If I had to go and present something I am sure that as human as I am, that I am going to try and put a little slant on it to convey my perception or my way of thinking.

KROUT Especially if I feel that the other side is generally biased, and they are wrong in their point of view.

WARREN It is a deficiency in our system though because this Board's position is being presented by one person.

KROUT I am sure that Mr. Anderson remembers that when he was a staff member, that the City Council also did not follow the advisory boards in all cases. It is just that when the shoe is on the other foot, it feels different.

ANDERSON If you are bringing up my past experiences that is fine. What I did, I did not make the recommendations of a Board that I was providing staff assistance to. The Chairman of that Board made those recommendations to City Council. If we were to make recommendations relative to some items relative to policy that the City Council was considering, the Chairman of that Board appeared before the City Council and made those recommendations on that policy.

KROUT We have had this discussion before.

ANDERSON It wasn't my position to make those recommendations.

KROUT If I thought that we had a fair and objective and balanced Planning Commission, then I wouldn't think that we would be having this discussion.

GAROFALO They get the MAPC minutes or not?

BISHOP Yes, they are in this packet. I would just say that you guys are failing to see the handwriting on the wall, which is what I attempted to address at that meeting. Which was that over and over the Planning Commission was approving used car lots, which would then get overturned by the governing body. What I was saying in trying to draft something that would address that better, let's at least try to put something down that is not just open ad-hoc each time. I said in one of our discussions that I thought what the governing body was going to think is that the Planning Commission was trying to cut their legs out from under them as far as legal standing was concerned. They obviously did not go for it.

MICHAELIS I think it is a question that we would rather them get sued than us get sued.

JOHNSON Today on Item #9 at the corner of Harry and Broadway, which is inner city, there was a car lot on the northwest corner that was approved at some point in time. We had a case today that would turn it into a commercial business, and the car lot is leaving. Since the City Council will not hear that, or the news media, I guess that I would like us to send the minutes to each one of them so they understand that sometimes from a builder's standpoint, that we do something different then just build another car lot, because once you start wandering off it is all going to turn into car lots, and that is not always the case. There is some on the other side.

BARFIELD I think that we have to recognize whether we like it or not those guys vote by district, and often times the district council member will have his mind pretty much made up before he ever gets the recommendation from us. They do what they want to do. Like on Rock Road, Joe Pisciotte overturned what the MAPC recommended, and I am talking in particular about the apartment complex to change that, into commercial development. Joe Pisciotte changed that and he over rode that.

KROUT That is not over yet, it goes to the City Council next month.

BARFIELD That car lot that was approved on West Street was overturned by Sharon Fearey. I could go on down the list; they continue to do it. It is what the Council member in that particular district, 99 percent of the time is what the Council member wants is what happens with the City Council, whether we like it or not.

ANDERSON That is the fault of the system, that is the fault of the way that we constructed our methodology of electing our City Council, but that is a given. That is what we have got to deal with right now. All I was suggesting is that we think about this whole problem, because I hope that the City Council gets the information that I had in terms of making a decision, and if we spend three or four hours trying to make a decision on it, and they take five minutes based on recommendations from whatever they get, I just feel like that maybe they have got to rely on us to have had made the right decision on some of this stuff.

BISHOP They also get the chance to read the minutes, and I think they are getting the message clear from MAPC. What I think is that MAPC is not getting the message back clear from the elected body.

WARNER If you're sitting on this Board you have got to understand that the City Council and County Commission make the final decision on most things. If that hurts your feelings, maybe you ought to do something else. If you are concerned about car lots, and I voted with the majority on it, but if that is making somebody mad you have got to do something else. Who cares about car lots when it gets right down to it?

MCKAY How did we get here? We are appointed by the people that we are talking about. Votes this way, or does that, or something, that is the way the system works.

KROUT They didn't necessarily appoint you because they like you though, John.

GAROFALO moved **WARREN** seconded to adjourn, and it carried unanimously (14-0).

The Metropolitan Area Planning Commission adjourned at 3:51 p.m.

State of Kansas)
Sedgwick County) ss

I, Marvin S. Krout, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2002.

Marvin S. Krout, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)